

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 23, 2003
10:05 A.M.

Reported by:
Peter Petty
Contract No. 150-01-005

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Robert Pernell

Arthur H. Rosenfeld

James D. Boyd

Margret J. Kim, Ex Officio

STAFF PRESENT

Robert Therkelsen, Executive Director

William Chamberlain, Chief Counsel

Song Her, Alternate Secretariat

Ram Verma

Paul Roggensack

Connie Bruins

Lance Shaw

Nancy Tronaas

Dora Yen-Nakafuji

Eric Stubee

Leigh Stamets

Scott Matthews

Dan Fong

Major Williams

Lisa DeCarlo

Christy Chew

Matthew Layton

PUBLIC ADVISER

Roberta Mendonca

ALSO PRESENT

K.C. Bishop, III, Senior Consultant
ChevronTexaco Corporation
on behalf of Western States Petroleum Association

Norma J. Glover, Chairman
California Natural Gas Vehicle Partnership

Michael L. Eaves, President
California Natural Gas Vehicle Coalition

Chung S. Liu, D. Env., Deputy Executive Officer
South Coast Air Quality Management District

Audrie Krause
representing The Stop Hidden Gas Taxes Coalition

Russell Teall, President
Biodiesel Industries, Inc.

V. John White, Executive Director
Center for Energy Efficiency and Renewable
Technologies

Ted Gibson
The SAER Group, Strategic Analysis Experience
Results

Graham Noyes, Director, US West
WorldEnergy

Michael Coates
Green Car Group

Tim Castleman
Drive 55 Conservation Project

Pam Jones
Diesel Technology Forum

Patricia Monahan, Senior Analyst, Clean Vehicles
Program
Union of Concerned Scientists

ALSO PRESENT

Brian O'Leary, Ph.D., Author, Scientist, Futurist,
Pianist, International Speaker, Former Astronaut

Roland J. Hwang, Senior Policy Analyst
Natural Resources Defense Council

Gretchen Knudsen, Manager, California Public
Policy Program
International Truck and Engine Corporation

Bonnie Holmes-Gen, Assistant Vice President,
Government Relations
American Lung Association of California

Robert Sarvey

Susan Sarvey
Clean Air for Citizens and Legal Equality

Gabriel E. Karam, Development Manager
Mountain House Community Services District

Eileen Wenger Tutt, Air Pollution Specialist
California Air Resources Board

Greggory L. Wheatland, Attorney
Ellison, Schneider & Harris, LLP
Michael A. Hatfield, Manager Project Development
Gary Rubenstein, Consultant
Sierra Research
Kris Helm, Consultant
Calpine Corporation

Steven A. Herum, Attorney
Herum, Crabtree, Brown
Trimark Communities, Inc.

via telephone

Michael E. Boyd
Californians for Renewable Energy

Seyed Sadredin
San Joaquin Valley Air Pollution Control District

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P R O C E E D I N G S

10:05 a.m.

CHAIRMAN KEESE: I call this business meeting of the Energy Commission to order. Commissioner Rosenfeld, would you lead us in the pledge, please.

(Whereupon the Pledge of Allegiance was recited in unison.)

CHAIRMAN KEESE: Thank you. Commissioner Geesman is not with us today; he's on vacation. We welcome Ms. Kim joining us.

For those of you who were at our last meeting it was a very short meeting. And as we indicated, we anticipate a little longer meeting today. I was asked by a couple people when we will be taking lunch. We don't do that.

(Laughter.)

CHAIRMAN KEESE: So, we'll be going straight through.

With that, consent calendar.

COMMISSIONER ROSENFELD: I move the consent calendar.

CHAIRMAN KEESE: Motion, Rosenfeld.

COMMISSIONER PERNELL: Second.

CHAIRMAN KEESE: Second, Pernell.

1 All in favor?

2 (Ayes.)

3 CHAIRMAN KEESE: Opposed? Adopted four
4 to nothing.

5 Item 2, City of Compton. Possible
6 approval of a \$400,000 loan from the Energy
7 Conservation Assistance Account to the City of
8 Compton to install energy efficient light emitting
9 diode traffic lights.

10 COMMISSIONER PERNELL: Mr. Chairman,
11 this came before the Efficiency Committee. It is
12 fairly routine. We have been doing these types of
13 assistance to counties, and so I would, unless
14 there's questions from the Board, I would move the
15 item.

16 COMMISSIONER ROSENFELD: I second.

17 CHAIRMAN KEESE: Motion, Pernell;
18 second, Rosenfeld. Any questions?

19 All in favor?

20 (Ayes.)

21 CHAIRMAN KEESE: Opposed? Adopted four
22 to nothing. Thank you.

23 COMMISSIONER PERNELL: Great
24 presentation.

25 (Laughter.)

1 CHAIRMAN KEESE: Item 3, California
2 Rebuild America. Possible approval of a \$50,000
3 grant from the year 2000 account to the
4 Collaborative for High Performance Schools for
5 preparing specifications and plans for energy
6 efficient portable classrooms.

7 COMMISSIONER PERNELL: Mr. Chairman,
8 again this came before the Efficiency Committee;
9 and as the Committee knows, the Collaborative for
10 High Performance Schools is a collaboration of
11 public, private and environmental groups. And we
12 are now looking at portable classrooms.

13 And, again, Mr. Chairman, if there's no
14 questions from the Board, I would move the item.

15 COMMISSIONER ROSENFELD: And again I
16 second it.

17 CHAIRMAN KEESE: Motion, Pernell;
18 second, Rosenfeld. Any questions up here? I'm
19 happy to see that in item 2 we had a 1.9-year
20 payback, and in this one we're looking at 20
21 percent benefits over current standards.

22 PRESIDING MEMBER BOYD: Mr. Chairman,
23 I'd just like to commend Commissioner Pernell for
24 his work with the schools. I've followed it for
25 quite some time. He's really done a good job

1 there.

2 CHAIRMAN KEESE: It's been a long
3 effort.

4 We have a motion and second. All in
5 favor?

6 (Ayes.)

7 CHAIRMAN KEESE: Opposed? Adopted four
8 to nothing. Thank you.

9 COMMISSIONER PERNELL: Thank you.

10 CHAIRMAN KEESE: Item 4, Chabot Las
11 Positas Community College District. Possible
12 approval of a \$183,685 loan from the Energy
13 Conservation Assistance Account to the Chabot Las
14 Positas Community College District to operate the
15 campus electrical services for the 300 kW
16 cogeneration system.

17 COMMISSIONER PERNELL: Mr. Chairman,
18 again it came before the Efficiency Committee, but
19 I feel a need to let our presenter say something.

20 (Laughter.)

21 CHAIRMAN KEESE: Mr. Verma, would you
22 give us a few words on this, please?

23 MR. VERMA: Last year the Commission
24 approved a loan to install a cogeneration plant
25 for the Chabot Las Positas Community College. And

1 after the loan was approved PG&E changed their
2 requirement for the interconnection.

3 Now PG&E requires them to install a
4 reverse power relay and a vacuum breaker and UPS
5 or uninterrupted power supply system for the
6 protection.

7 So, without this loan they cannot
8 interconnect the cogeneration plant to the grid.
9 And without this loan we cannot relay -- from the
10 cogeneration plant.

11 We have reviewed the cost for the
12 project. This project will increase the payback
13 from four years to 5.5 years. It's still within
14 our guidelines and within our limit.

15 CHAIRMAN KEESE: Thank you.

16 COMMISSIONER PERNELL: Mr. Chairman, as
17 you have heard, the Community College really needs
18 this loan. And I would move the approval.

19 CHAIRMAN KEESE: Motion, Commissioner
20 Pernell.

21 COMMISSIONER ROSENFELD: Second.

22 CHAIRMAN KEESE: Second, Commissioner
23 Rosenfeld. Any comments?

24 All in favor?

25 (Ayes.)

1 CHAIRMAN KEESE: Opposed? Adopted four
2 to nothing. Thank you, Mr. Verma.

3 COMMISSIONER PERNELL: Thank you.

4 CHAIRMAN KEESE: Item 5, Department of
5 Energy, Lawrence Berkeley National Laboratory.
6 Possible approval of work authorization number MR-
7 016, not to exceed \$3,280,000, to conduct research
8 in a project entitled, High-Performance High-Tech
9 Buildings/Laboratories, Clean Rooms and Data
10 Centers. Good morning.

11 MR. ROGGENSACK: Good morning, Mr.
12 Chairman, Members of the Commission. My name is
13 Paul Roggensack; I'm a chemical engineer with the
14 PIER industrial, agriculture and water team.

15 The purpose of item number 5 is a work
16 authorization for \$3.28 million for a term of 27
17 months with the University of California Master
18 Research Agreement for the Lawrence Berkeley
19 National Laboratory High-Performance High-Tech
20 Buildings, Laboratories, Clean Rooms and Data
21 Centers.

22 The purpose of the work authorization
23 will save time and costs to continue previous work
24 that was done under previous contracts with LBNL
25 for clean rooms and data centers.

1 What the work authorization will do for
2 labs and clean rooms will continue benchmarking to
3 develop best practices; determine energy
4 efficiency of fan filter units; develop demand
5 control ventilation concepts; identify energy
6 efficiency opportunities for mini-environments;
7 and continue work on the low-flow Berkeley fume
8 hood.

9 For data centers the work objectives
10 will be to continue benchmarking. That will
11 include self benchmarking protocols and best
12 practices. Continue work in building in IT
13 interfaces and improve IT power supplies issues.

14 In addition to these deliverables, the
15 work authorization will also include industrial
16 demonstrations that will be determined by a PAC
17 and will be conducted with -- PAC being a project
18 advisory committee -- and will be conducted within
19 this partners and other research organizations.

20 As a result of this work authorization
21 LBNL estimates a 30 to 50 percent energy savings
22 for laboratories and data centers and clean rooms.

23 I'd be happy to answer any questions.

24 CHAIRMAN KEESE: Thank you very much.

25 COMMISSIONER ROSENFELD: Mr. Chairman,

1 this has, of course, come before the --

2 CHAIRMAN KEESE: Commissioner Rosenfeld.

3 COMMISSIONER ROSENFELD: -- Committee,
4 and it's one of our enthusiastic projects.

5 CHAIRMAN KEESE: Thank you. Is that a
6 motion?

7 COMMISSIONER ROSENFELD: Yes, that's a
8 motion, item 5.

9 CHAIRMAN KEESE: Motion, Commissioner
10 Rosenfeld.

11 PRESIDING MEMBER BOYD: Second.

12 CHAIRMAN KEESE: Second, Commissioner
13 Boyd. Any other discussion?

14 All in favor?

15 (Ayes.)

16 CHAIRMAN KEESE: Opposed? Adopted four
17 to nothing. Thank you, Mr. Roggensack.

18 COMMISSIONER PERNELL: Thank you.

19 CHAIRMAN KEESE: Item 6 is over, most
20 likely till our August 6th meeting.

21 Item 7, Tracy Peaker Power Project.
22 Possible approval of a petition to modify air
23 quality conditions of certification to allow for
24 reduction in PM emission limits, and subsequently
25 to lower the required amount of PM10 emission

1 reduction credits and to simplify the methodology
2 for tracking and reporting emissions during
3 startups and shutdowns. Good morning.

4 MS. BRUINS: Good morning,
5 Commissioners. my name is Connie Bruins; I am the
6 Compliance Project Manager for the Tracy project,
7 and for the amendment petition that you will be
8 hearing today.

9 Representatives from GWF Energy, LLC,
10 are here today if you have any questions at the
11 end of my short presentation.

12 This is an amendment to modify various
13 air quality conditions of certification to this 69
14 megawatt peaker project that's located in San
15 Joaquin County just south of Stockton. It's, as I
16 said, owned and operated by GWF Energy, LLC. It
17 was certified on July 17, 2002, and has been in
18 operation since June of this year.

19 In summary, just briefly, the amendment
20 petition will reduce the PM10 emissions by 68
21 percent based on source testing, and will allow
22 them to reduce their ERCs. It would also clarify
23 and simplify the methodology regarding startup and
24 shutdown emission limits for tracking and
25 reporting emissions in order to allow more

1 flexible dispatch. And it eliminates the maximum
2 number of startups and shutdowns per year.
3 However, it does not increase annual or daily
4 permitted emissions.

5 A notice of receipt was mailed out in
6 February. The staff analysis was mailed in June.
7 That was slightly delayed because the Air District
8 wanted to complete the source test prior to
9 completing their analysis. To date no agency or
10 public comments have been received on the staff
11 analysis.

12 The modifications were approved by the
13 Air District on June 9th, and as written there
14 will be no new or additional unmitigated
15 significant environmental impacts. It meets the
16 filing requirements of 1769 and we recommend
17 approval.

18 CHAIRMAN KEESE: Thank you.

19 COMMISSIONER PERNELL: One question, Mr.
20 Chairman.

21 CHAIRMAN KEESE: Commissioner Pernell.

22 COMMISSIONER PERNELL: Would you say
23 that this would be a net benefit to air quality?

24 MS. BRUINS: Yes. A qualified yes.

25 COMMISSIONER PERNELL: Thank you.

1 CHAIRMAN KEESE: Thank you. The matter
2 is before us.

3 COMMISSIONER PERNELL: Mr. Chairman, if
4 no one else will speak to this, I saw GWF, and I
5 don't know whether they want to say anything, but
6 I would be -- it would be a pleasure to move this
7 item.

8 CHAIRMAN KEESE: Motion, Commissioner
9 Pernell.

10 PRESIDING MEMBER BOYD: I'd be pleased
11 to second the item. I like reductions.

12 CHAIRMAN KEESE: Second, Commissioner
13 Boyd. Any further conversation?

14 All in favor?

15 (Ayes.)

16 CHAIRMAN KEESE: Opposed? Adopted four
17 to nothing.

18 I believe your presentation on -- let me
19 introduce item 8, Henrietta Peaker Power Project.
20 Possible approval of a petition to modify air
21 quality conditions of certification to do the same
22 thing we did in number 7.

23 MR. SHAW: Indeed.

24 CHAIRMAN KEESE: Thank you.

25 (Laughter.)

1 CHAIRMAN KEESE: Do I have a motion?

2 PRESIDING MEMBER BOYD: So moved.

3 CHAIRMAN KEESE: Motion, Commissioner
4 Boyd.

5 COMMISSIONER PERNELL: Second.

6 CHAIRMAN KEESE: Second, Commissioner
7 Pernell.

8 All in favor?

9 (Ayes.)

10 CHAIRMAN KEESE: Opposed? Adopted four
11 to nothing. Thank you.

12 MR. SHAW: Thank you.

13 CHAIRMAN KEESE: Item 9, Elk Hills Power
14 Project. Possible approval of petition to
15 increase startup and shutdown emission limits and
16 corresponding emission offsets; and to modify
17 cooling tower operations to conserve water, with a
18 slight increase in PM10 emissions; and to increase
19 the power of the emergency fire water pump engine.

20 MS. TRONAAS: Yes, good morning.

21 CHAIRMAN KEESE: Good morning.

22 MS. TRONAAS: I'm Nancy Tronaas; I'm the
23 Compliance Project Manager for the Elk Hills Power
24 project. This is a petition to amend the 500
25 megawatt Elk Hills Power project located in Kern

1 County to allow for an increase in NOx, carbon
2 monoxide and VOC emissions during startup and
3 shutdown events.

4 This request is based on updated
5 performance data for the GE Frame 7 turbines. And
6 these emission increases will be offset with
7 emission reduction credits where applicable.

8 They also request to increase the power
9 of the emergency fire water pump from 125
10 horsepower to 240 horsepower.

11 And third, they request to institute
12 water conservation measures by increasing the
13 number of cycles through the cooling tower which
14 will result in a 1 percent increase in PM10
15 emissions, which is also mitigated through the
16 emission reduction credit program.

17 These changes have been approved by the
18 San Joaquin Valley Air Pollution District. On
19 June 27th we mailed out the staff analysis to
20 those individuals who requested a copy; and it was
21 posted on the Commission website. We have not
22 received any comments from the public or public
23 agencies on the staff analysis.

24 And I also would like to enter into the
25 record a corrected order that differs from the

1 order in your package, only slightly. We caught
2 some administrative and typographical errors that
3 need to be corrected. So I apologize for that.

4 And to conclude, it is staff's opinion
5 that these project changes will not result in any
6 unmitigated and significant environmental impacts.
7 The required findings of 1769 can be made. And we
8 recommend approval.

9 CHAIRMAN KEESE: Thank you very much.

10 COMMISSIONER PERNELL: Mr. Chairman, I
11 would move the item.

12 PRESIDING MEMBER BOYD: Second the item.

13 CHAIRMAN KEESE: Motion, Commissioner
14 Pernell; second, Commissioner Boyd. Any further
15 discussion?

16 All in favor?

17 (Ayes.)

18 CHAIRMAN KEESE: Opposed? Adopted four
19 to nothing. Thank you.

20 MS. TRONAAS: Thank you.

21 CHAIRMAN KEESE: Item 10, Truewind
22 Solutions, LLC. Possible approval of a \$424,500
23 contract with Truewind Solutions to develop high-
24 resolution regional wind resource maps and conduct
25 a tall tower/solar wind monitoring program. I

1 hope that's solar wind.

2 MS. YEN-NAKAFUJI: Sodar, yes.

3 COMMISSIONER ROSENFELD: I hope so, too.

4 PRESIDING MEMBER BOYD: Sodar wind.

5 MS. YEN-NAKAFUJI: Sodar. Good morning,
6 my name is Dora Yen-Nakafuji and I'm the Technical
7 Lead for the Wind Energy Resources for the PIER
8 R&D program.

9 And we're looking, requesting for
10 possible approval on this follow-on contract with
11 Truewind in support of our regional wind resource
12 monitoring and remapping effort.

13 The technology developed by Truewind has
14 allowed us to remap California's wind resources
15 and helped us identify some new sites within
16 California for immediate development.

17 At the same time we're also looking at
18 R&D initiatives to locate low wind resource sites
19 where we can take advantage of some of the new
20 technology currently being developed in the
21 industry.

22 These maps provide more than just a
23 visual tool. They are also a data set in the back
24 where we can utilize GIS capability right now.
25 And the data set coming in right now is setting

1 the foundations for a lot of our strategic
2 initiatives and also helping us to address some of
3 the regional portfolio standards in terms of
4 planning of what we can actually develop in the
5 next ten years for wind energy.

6 At the same time the maps are locating
7 new sites for large-scale development as well as
8 small-scale wind energy development, so it
9 addresses both the needs of the small- and large-
10 wind industry development needs.

11 And so we recommend an approval on this
12 follow-on contract with Truewind.

13 CHAIRMAN KEESE: Thank you.

14 COMMISSIONER ROSENFELD: Mr. Chairman, I
15 move item 10.

16 CHAIRMAN KEESE: Motion, Commissioner
17 Rosenfeld.

18 COMMISSIONER PERNELL: Second.

19 CHAIRMAN KEESE: Second, Commissioner
20 Pernell. Any further discussion?

21 All in favor?

22 (Ayes.)

23 CHAIRMAN KEESE: Opposed? Adopted four
24 to nothing.

25 For those in the audience not familiar

1 with our building, if you exit to the right out
2 the main door you do not set off the alarm. If
3 you exit through the other door and don't have a
4 pass it frees the alarm and we're going to hear it
5 again.

6 (Laughter.)

7 CHAIRMAN KEESE: So, to the right if you
8 choose to get out.

9 COMMISSIONER ROSENFELD: Right is right.

10 CHAIRMAN KEESE: Item 11, Platts
11 Research and Consulting, E Source Group. Possible
12 approval of a \$256,546 contract with the E Source
13 Group at Platts Research and Consulting to produce
14 and distribute a series of newsbriefs summarizing
15 PIER program research in the buildings end use
16 energy efficiency area.

17 MR. STUBEE: Good morning,
18 Commissioners. My name's Eric Stubee. I'm a
19 member of the PIER buildings team, and I'm
20 representing Don Aumann, who, luckily for him, is
21 on vacation today.

22 This proposal is a contract with E
23 Source to produce and distribute approximately 25
24 technical newsbriefs summarizing the results from
25 research in the PIER buildings area. This effort

1 supports our need to disseminate our results to
2 industry.

3 The technology briefs will be
4 distributed electronically throughout California
5 and across the country. And additionally E Source
6 will work with editors of trade journals to get
7 articles in their publications, as well as
8 standard E Source documents.

9 CEC Staff recommends approval of this
10 contract; and the R&D Committee has reviewed and
11 approved it, also.

12 Any questions?

13 CHAIRMAN KEESE: Thank you. Any
14 questions here?

15 COMMISSIONER ROSENFELD: Mr. Chairman, I
16 move item 11.

17 CHAIRMAN KEESE: Motion, Commissioner
18 Rosenfeld.

19 COMMISSIONER PERNELL: Second.

20 CHAIRMAN KEESE: Second, Commissioner
21 Pernell.

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted four
25 to nothing. Thank you.

1 MR. STUBEE: Thank you.

2 CHAIRMAN KEESE: Item 12, Strategic Fuel
3 Reserve Assessment Report. Possible adoption of
4 the Committee report, Feasibility of a Strategic
5 Fuels Reserve in California, as required by AB-
6 2076.

7 MS. MENDONCA: Excuse me, Commissioner.
8 Apparently some of the agendas have different
9 numbers, and therefore some of the blue cards that
10 were submitted may not have the correct number --

11 CHAIRMAN KEESE: I believe they're all
12 accurate.

13 MS. MENDONCA: Some of the agendas had
14 two 3's, and therefore the numbering at this point
15 gets a little bit cloudy. So if you have several
16 people that have signed up to comment on 12, they
17 may be meaning item 13. I'm just pointing that
18 out.

19 CHAIRMAN KEESE: All right. I have only
20 13's and 14's. Thank you.

21 Strategic fuel reserve.

22 MR. STAMETS: Yes, I'm here, Leigh
23 Stamets.

24 CHAIRMAN KEESE: Thank you, Leigh.

25 MR. STAMETS: The Assembly Bill 2076

1 requires the Energy Commission to examine the
2 feasibility of operating a strategic fuel reserve
3 to insulate California consumers from short-term
4 price increases arising from supply disruptions;
5 and to report recommendations to the Governor,
6 Legislature and Attorney General.

7 On March 13, 2002, the Transportation
8 Committee held a workshop to discuss the results
9 of a consultant report, California's Strategic
10 Fuels Reserve draft report. The consultant
11 submitted a revised California's Strategic Fuels
12 Reserve Report and Economic Benefits of Mitigating
13 Refinery Destruction Report in July 2002.

14 The Committee held workshops on April
15 24th and 25, 2003, based on the above reports and
16 three additional consultant studies to examine
17 alternatives: California Marine Petroleum
18 Infrastructure draft report, Government use of
19 California Gasoline Forward Market draft report,
20 and Permit Streamlining for Petroleum Products
21 Storage draft report.

22 On July 10, 2003, the Transportation
23 Committee submitted the draft report, Feasibility
24 of a Strategic Fuel Reserve in California for
25 public comment. The report recommends first the

1 Governor and the Legislature should not proceed
2 with the strategic fuel reserve concept evaluated
3 by the Committee.

4 Second, the Commission should undertake
5 a comprehensive evaluation of California's future
6 petroleum product import needs. And third, the
7 Governor and Legislature should identify a state
8 licensing authority for petroleum storage
9 infrastructure and related facilities.

10 That completes my comments. Thank you.

11 CHAIRMAN KEESE: Thank you. Do we have
12 any other comments?

13 PRESIDING MEMBER BOYD: I think I'd like
14 to hear public testimony before any further
15 comments on my behalf.

16 CHAIRMAN KEESE: Mr. Bishop, did you
17 care to comment on this item?

18 DR. BISHOP: Mr. Chairman and Members,
19 my name's K.C. Bishop. I'm a Senior Consultant
20 for Chevron Corporation; and I'm here testifying
21 on behalf of WSPA, the Western States Petroleum
22 Association.

23 First of all, I'd like to say that we
24 agree with the conclusions presented in the
25 report. And we believe that you're correct in

1 your analysis of how petroleum markets work. And
2 that actually establishing a mandated reserve
3 would lead to actually price increases, and that
4 the market would react in a way that, in fact,
5 wouldn't achieve the goals that they were looking
6 for in the original legislation.

7 Many parts of the SFR report
8 substantiate WSPA's contention that government
9 intervention in the petroleum marketplace will
10 disrupt the price. And your report says it very
11 well when it states: Many well-intended
12 government market actions have had unintended
13 consequences, which were ultimately harmful to
14 consumers, and in some cases, subverted the goal
15 that the action was designed to achieve."

16 Typically this has occurred due to a
17 failure to assess the reaction of market
18 participants properly. And we, as an
19 organization, applaud your willingness to reach
20 this conclusion independently.

21 WSPA also agrees with some of the other
22 recommendations in your report, which are looking
23 at ways to promote flexibility in providing fuels
24 for Californians. Streamlining permitting;
25 upgrading, if we can, our ability to have marine

1 imports; looking at Title 5; looking at increased
2 NOx offsets for permitting. And, as we've all
3 worked together to talk about, whether or not we
4 really need a federal oxygenate mandate in
5 California.

6 All of those things are things that WSPA
7 would like to continue to work with your staff and
8 the ARB to try to achieve. Because I think we can
9 do a lot of good to actually have more fuel in
10 California.

11 We, as always, over the coming months
12 would very much like to continue to work with your
13 organization on all of those things. The one
14 thing we have a real question about is the new
15 state licensing authority for how you store
16 petroleum. We're really not quite sure how that
17 works.

18 We certainly want to work on flexibility
19 to make the entire system work. We don't know if
20 that one particular part of it is the most
21 pressing need in California.

22 Finally, just in closing, I'd like to
23 commend your staff. It was a truly unbiased look
24 at how markets really work. And I know it wasn't
25 easy, it was long and tortuous. And we'd really

1 like to say it was a job very well done.

2 Thank you very much.

3 CHAIRMAN KEESE: Thank you, Mr. Bishop.

4 COMMISSIONER PERNELL: Thank you.

5 CHAIRMAN KEESE: And I am pleased to
6 hear on another front that it seems that we are
7 close to agreement with the industry on data
8 collection aspects. And I look forward to success
9 in that area, also.

10 DR. BISHOP: Thank you.

11 CHAIRMAN KEESE: Thank you. Mr. Boyd.

12 PRESIDING MEMBER BOYD: Thank you, Mr.
13 Chairman. I want to thank Mr. Bishop for his
14 testimony. As he said, it was a long arduous
15 process. I think, as most people know, the
16 Commission actually asked the Legislature for more
17 time to carry out studies affecting petroleum
18 price volatility and what-have-you in order to do
19 the thorough job that was indicated.

20 I'm glad that there's a recognition that
21 the staff and the Commission do recognize
22 unintended consequences and do address them when
23 they feel that it's in the best business of the
24 people of the state.

25 As indicated from the recommendations,

1 the staff, and as ratified by the Transportation
2 Committee, did find that it wasn't in the state's
3 best interests to suggest to the Legislature that
4 we facilitate or finance a strategic fuels
5 reserve. And that in the course of this study,
6 and one of the reasons for more time, was a
7 request that we look at other possibilities, such
8 as the ability of state government and local
9 governments combined to make a market. We also
10 rejected that concept.

11 And we did, in the process, as Mr.
12 Stamets touched on lightly, get deeply into the
13 issue of permitting of facilities; and
14 specifically got deeply into questions and issues
15 regarding infrastructure, storage infrastructure,
16 pipeline infrastructure, marine terminal
17 infrastructure, which issues have been transferred
18 over to the Integrated Energy Policy Report arena,
19 which affords us a continuous forum to address
20 issues in this dynamic transportation fuels area.

21 And while we're making recommendations
22 to the Legislature here to look at the overall
23 permit responsibility, I believe it's the
24 intention of the Commission and the Commission
25 Staff to continue to vigorously pursue the

1 questions and issues around fuels infrastructure
2 in order to help the citizens of the state and the
3 industry fulfill their economic needs and fulfill
4 their responsibilities.

5 So we intend aggressively, and have
6 already, to work with the industry to maximize
7 their ability to utilize our existing
8 capabilities, and to optimize the infrastructure
9 all in the name of addressing the original issue
10 that was put before this Commission. And that is
11 the issue of price volatility and its economic
12 effect on the citizens of the state. Which is an
13 unfortunate unintended consequence of price
14 volatility. But nonetheless, it's a painful
15 consequence.

16 And in an economy as stressed as this
17 state's is, anything we can do to expand and
18 extend in the short term the fuel supply is
19 something we want to do.

20 So, on that basis, and speaking for the
21 Transportation Committee, I'd like to recommend
22 approval of this report. So moved.

23 CHAIRMAN KEESE: Motion, Commissioner
24 Boyd.

25 COMMISSIONER PERNELL: Second.

1 CHAIRMAN KEESE: Second, Commissioner
2 Pernell. Is there anybody in the audience who
3 failed to send us a blue card?

4 Seeing none, all in favor?

5 COMMISSIONER PERNELL: Mr. Chairman, can
6 I speak to the question?

7 CHAIRMAN KEESE: Yes, you may, --

8 COMMISSIONER PERNELL: Just very
9 briefly.

10 CHAIRMAN KEESE: -- Commissioner
11 Pernell.

12 COMMISSIONER PERNELL: I wanted to echo
13 the comments of Commissioner Boyd in terms of
14 staff and how they worked together to put this
15 report together.

16 But specifically I wanted to recognize
17 and thank Commissioner Boyd for his leadership.
18 And it is on these types of report it's not easy
19 bringing industry and all of the stakeholders
20 together. I think he did a good job in that. He
21 certainly is a welcome addition to this
22 Commission, from my standpoint. And he got here,
23 rolled his sleeves up and went to work.

24 I just wanted -- I haven't said that
25 publicly, but I certainly want to say it now. So,

1 Commissioner Boyd, I thank you for your
2 leadership, and getting this report out to the
3 Legislature.

4 PRESIDING MEMBER BOYD: Thank you,
5 Commissioner Pernell; I'll need this for the next
6 item.

7 (Laughter.)

8 CHAIRMAN KEESE: Thank you. We have a
9 motion and a second.

10 All in favor?

11 (Ayes.)

12 CHAIRMAN KEESE: Opposed? Adopted four
13 to nothing. I also thank staff for the yeoman's
14 work on this project.

15 Item 13, Reducing California's Petroleum
16 Dependence. Possible adoption of the report,
17 Reducing California's Petroleum Dependence,
18 required by Assembly Bill 2076.

19 MR. MATTHEWS: Good morning, Mr.
20 Chairman, Commissioners. I'm Scott Matthews,
21 Deputy Director for Transportation Energy here at
22 the Energy Commission. Dan Fong had the Technical
23 Lead for this report, and will make the
24 presentation of the report to you. We are asking
25 for your adoption of the Committee report on the

1 second part of 2076 to reduce dependence on
2 petroleum. Mr. Fong.

3 CHAIRMAN KEESE: Thank you.

4 MR. FONG: We're waiting for some warm-
5 up here, so please bear with me.

6 Good morning. Let me walk you through
7 some of the key points of our work, and go through
8 some of the technical detail that support that
9 effort.

10 In our presentation this morning we'll
11 briefly discuss the direction that we received in
12 AB-2076; we'll talk about the key recommendations
13 coming from that effort; we'll discuss the
14 extensive public process that we used to develop
15 the report; many of the options that we evaluated
16 that formed the key recommendations. And then
17 some discussion about how we went about putting
18 together the goals that are contained within the
19 recommendations.

20 In AB-2076 the Energy Commission and the
21 Air Resources Board were directed to do the
22 following: First, the Energy Commission was
23 directed to produce a forecast for the consumption
24 of gasoline, diesel and petroleum in the years
25 2010, 2020 and at least through 2030.

1 The two agencies would then submit a
2 joint report to the Governor and Legislature.
3 This report would contain a recommended strategy
4 for reducing petroleum dependence. It would also
5 include statewide goals for reducing the rate of
6 growth in gasoline and diesel fuel consumption.

7 The second part of the legislation was
8 previously heard, and that was to examine the
9 feasibility of operating a strategic fuel reserve.

10 The key recommendations in the report
11 are as follows: We're recommending that there be
12 a statewide goal adopted for reducing demand for
13 onroad gasoline and diesel of 15 percent below the
14 2003 level by 2020; and maintaining that level for
15 the foreseeable future.

16 Secondly, work with the California
17 delegation and other states to establish national
18 fuel economy standards that double the fuel
19 efficiency of new cars, light trucks and SUVs.

20 Thirdly, establish a goal to increase
21 the use of nonpetroleum fuels to 20 percent by
22 2020 and 30 percent by 2030.

23 We believe these goals contain important
24 flexibility. We recognize that should the federal
25 government fail to implement a fuel economy

1 standard that doubles onroad fuel efficiency of
2 new cars, the goal stated in recommendation number
3 one would need to be reassessed.

4 We also recognize that a mix of
5 nonpetroleum fuels can be used to displace a
6 fraction of future petroleum fuel demand in 2020
7 and 2030. We are not necessarily picking
8 particular winners in this particular area, we're
9 identifying fuels that we think have a chance to
10 be widely accepted in the marketplace.

11 We held our first public workshop to
12 review the work that would be performed by the
13 Energy Commission and ARB. We held the workshop
14 as early as September 2001 to review many of the
15 petroleum reduction options that were proposed to
16 be evaluated.

17 We then held a series of workshops in
18 2002 beginning in January and then completed in
19 April of 2002. All of these workshops covered in
20 great detail the methodologies that were being
21 proposed for use in evaluating all the various
22 petroleum reduction options in our mix of
23 opportunities.

24 We presented preliminary results from
25 some of that early work. We covered this

1 information very very extensively. And so we had
2 a lot of feedback and a lot of participation by a
3 host of stakeholders. We believe we benefitted
4 greatly from that interaction.

5 We culminated that work with the
6 presentation of our draft report on May 15, 2003;
7 and then the Commission's Policy Committee, led by
8 Commissioner Boyd and the Associate Member was
9 Commissioner Geesman. We were also joined by
10 Chairman Alan Lloyd of the Air Resources Board, to
11 hold a joint agency hearing on the staff's draft
12 report on June 6th of this year.

13 Through these efforts we have now, we
14 believe, the proposed report responds to various
15 comments in the following manner: We recognize
16 that our overall goal depends greatly on federal
17 action, and so we have now stated clearly in the
18 proposed report that if the federal government
19 fails to act to modify current fuel economy
20 standards, then the recommendation for demand
21 reduction in gasoline and diesel would be
22 reassessed.

23 Many stakeholders commented regarding
24 the potential for increased taxes or fees that
25 might influence consumers. We make it very clear

1 in the proposed report that no such taxes or fees
2 are being recommended.

3 We have clarified figures in the summary
4 document. We have added suggested footnotes to
5 clarify the information being presented. We've
6 added additional analysis for some technology
7 options that were brought to our attention. And
8 we have updated some of the analysis, as well.

9 We have clarified the evaluation
10 presented for Fischer Tropsch diesel. Some
11 commenters questioned the cost of that particular
12 option. Again, in the report that is before you,
13 we clarify those cost issues.

14 We've also added discussion in the
15 proposed report on the use of ethanol, natural gas
16 and grid-connected hybrids. We have clarified the
17 third recommendation regarding the goal for
18 nonpetroleum fuels. And we have restated that
19 goal so that it is more easily understood and
20 calculated.

21 And finally, in the hearing that was
22 held in June and in our earlier workshop in May,
23 there were recommendations to adopt an extended
24 goal for the alternative, for the nonpetroleum
25 fuel fraction; and we have done so. We are now

1 extending that nonpetroleum fuel goal out to the
2 year 2030.

3 So, in developing the specific reduction
4 goal, our Policy Committee directed the staff to
5 really look at what might be a best case scenario
6 to achieve maximum and sustainable petroleum fuel
7 reductions while also producing net societal
8 benefits.

9 In doing so we first identified those
10 efficiency and nonpetroleum fuel options that
11 could enter the marketplace and produce a positive
12 net societal benefit. In using those options that
13 met that threshold, we built a portfolio which
14 would accumulate individual demand reductions to
15 produce what we believe is the best case scenario
16 for such reductions, and that those reductions can
17 be sustained over a long period of time.

18 So first off, let's briefly review some
19 of the efficiency options that we evaluated and
20 some that are highlighted in our report because
21 they actually meet this threshold of a net
22 positive benefit.

23 This may be somewhat difficult to view
24 on our slides here, but there are handouts in the
25 lobby that you might refer to.

1 Some of the options that we have
2 referred to in our portfolio include the 40 mpg
3 case, which was part of our vehicle fuel economy.
4 That is actually sort of labeled or found in the
5 middle of the bars there that reflect the net
6 benefit for different fuel economy cases that were
7 evaluated as part of our improved vehicle fuel
8 economy option.

9 Pretty much all of those vehicle fuel
10 economy cases proved to have a net societal
11 benefit. The one that we felt most positive about
12 that could produce these net societal benefits and
13 produce a relatively large reduction in gasoline
14 demand was the one associated with the fleetwide
15 average of 40 miles per gallon. This is an onroad
16 fuel economy, and so it essentially discounts the
17 fuel economy that might result through actual EPA
18 testing.

19 And so this 40 miles per gallon fuel
20 economy essentially would double the onroad fuel
21 economy of California's current new vehicle fleet.

22 There are other options here that also
23 proved to be cost effective. Some of these that
24 we will refer to later as near-term options.

25 These include improved vehicle maintenance; the

1 purchase by government fleets of best in class
2 fuel economy vehicles, that's titled Efficient
3 Government Fleets here.

4 We also examined the potential for
5 deployment of more fuel efficient replacement
6 tires. Looking at rolling resistance and seeing
7 if certain tires which are sold to the public
8 today can be emphasized for those consumers who
9 are replacing original equipment tires. So those
10 were part of our near-term options in the fuel
11 efficiency category.

12 With respect to the fuel substitution
13 options, these are our nonpetroleum fuel cases.
14 The ones that we used to help build the portfolio
15 include Fischer Tropsch diesel, which is the third
16 item on this chart. That reflects a net positive
17 benefit.

18 We also mention the potential use of LNG
19 in heavy duty vehicles. And in the long term we
20 believe that there's potential, under certain
21 pricing conditions. Some of these other
22 nonpetroleum fuel options like the fuel cell
23 options have a potential to also produce net
24 benefits.

25 So, by building up a portfolio we can

1 now show the demand reduction effect as you add
2 each additional option. The first line there
3 under the Commission's forecast for onroad
4 gasoline and diesel use in terms of billions of
5 gallons of gasoline equivalent, the first line
6 there is just the near-term options that I
7 mentioned previously.

8 If we add to those near-term options the
9 deployment of Fischer Tropsch diesel, we get the
10 second demand line there. When we add to that
11 second line the potential demand reduction coming
12 from a 40 mpg new vehicle fleet, we drop the
13 future projected demand very significantly.

14 And then lastly, if we add in the
15 potential for a nonpetroleum fuel like hydrogen in
16 a fuel cell vehicle application we can then
17 achieve the stated goal of 15 percent below 2003
18 demand. And you can see that that latter strategy
19 there allows us to maintain that level of demand
20 reduction to beyond 2035.

21 Finally, to show the actual energy
22 impact of the strategy and recommended goal, this
23 particular slide shows the actual energy
24 equivalent fuel use due to these different
25 potential options.

1 First, in the largest green section of
2 this chart we show the use, the energy use of
3 gasoline and diesel fuel. It reaches a peak in
4 roughly 2010, and then is reduced to the goal line
5 in about 2020.

6 At the same time we have a fraction of
7 ethanol, which is being used in gasoline that is a
8 nonpetroleum component. That is the yellow line
9 or area shown in this graph. On top of that
10 yellow area is the potential energy use coming
11 from Fischer Tropsch diesel.

12 And then finally the blue area is
13 reflective of a hydrogen fuel cell vehicle
14 penetration scenario.

15 So out in the year 2020 we are actually
16 reducing energy demand by roughly 2 percent below
17 the 2003 level. And so for, you know, the energy
18 supply industry, that would be sort of the energy
19 level that we would be seeking from our
20 transportation sector.

21 So that concludes our prepared remarks.
22 We'd be happy to address questions from the
23 Commission.

24 MR. MATTHEWS: We have one more part of
25 the presentation, Dan. This report was a joint

1 report between the CEC and ARB. We worked
2 exceedingly closely over the last almost two
3 years, is it now. And Eileen Tutt of the ARB
4 Staff is here to make a few comments on behalf of
5 all their work.

6 CHAIRMAN KEESE: Welcome, Ms. Tutt.

7 MS. TUTT: Good morning and thank you
8 for inviting us here to participate. Tom
9 Cackette, our Chief Deputy Executive Officer, was
10 supposed to make these comments but he couldn't
11 make it this morning, so what I would like to do
12 is just read his very brief statement into the
13 record.

14 "I appreciate the opportunity to join my
15 colleagues at the Energy Commission as they
16 consider adopting these goals and
17 recommendations to reduce California's
18 dependence on petroleum."

19 "I'd like to first point out that AB-2076
20 specifically directed the Energy Commission
21 and the Air Resources Board to work together
22 to develop and adopt recommendations for the
23 Governor and the Legislature on a California
24 strategy to reduce petroleum dependence."

25 "For almost three years now ARB and CEC Staff

1 have worked together to determine the cost
2 and cost savings associated with numerous
3 options to reduce petroleum dependence; and
4 then rank those options according to their
5 ability to reduce petroleum usage and provide
6 societal net benefits."

7 "ARB Staff believes the goals and
8 recommendations are based on sound technical
9 analyses. Our Chairman has been directly
10 involved, along with Commissioners Boyd and
11 Geesman, on a committee that oversaw the
12 development of these goals and
13 recommendations."

14 "The goals and recommendations provide a
15 framework to guide California down the path
16 to significantly reduce petroleum
17 consumption. They are technically feasible
18 with existing and emerging technologies that
19 provide cost savings to society. The
20 environmental benefits associated with a
21 reduction in petroleum dependence support
22 ARB's efforts to protect public health and
23 the environment."

24 "I would like to spend just a moment speaking
25 from an environmental perspective to the

1 reasons it is imperative we reduce our
2 dependence on petroleum. There are
3 significant criteria and toxic emissions
4 impacts associated with this dependence.
5 Upstream emissions associated with petroleum
6 usage increase as petroleum usage increases.
7 These upstream emissions include refinery,
8 transport, storage and refueling emissions."
9 "Of particular concern is the fact that the
10 upstream consequences would be
11 disproportionately felt in low income and
12 minority communities where many of the
13 upstream facilities are located. Most urban
14 areas are not in attainment for criteria
15 pollutants, and there are no thresholds for
16 toxic emissions."
17 "Increased upstream emissions weaken our
18 efforts to reach attainment and reduce toxic
19 emissions and result in adverse public and
20 environmental impacts."
21 "I will wrap up with an issue that is of
22 particular concern to our joint agencies, the
23 implications of climate change. California
24 is particularly vulnerable to the impacts of
25 climate change for reasons including

1 increasing temperatures that adversely impact
2 air quality and public health; effects on our
3 valuable water supplies; the combination of
4 water supply issues, altered temperatures and
5 rainfall patterns; and the ensuing pest
6 implications seriously threaten our rich
7 agricultural industry."

8 "And, finally, our beautiful and very
9 valuable forests and coastal areas are
10 impacted as the potential for forest fires
11 increases and sea level rise erodes our
12 coastlines."

13 "This is not an exhaustive list of the
14 implications of climate change, but it
15 provides some indication of the concerns
16 associated with the phenomena. Reducing
17 petroleum usage by requiring more efficient
18 vehicles provides direct greenhouse gas
19 emission reductions as well as reducing these
20 emissions upstream. Many of the nonpetroleum
21 fuel options also provide reductions in
22 greenhouse gas emissions."

23 "Thank you for considering my comments in
24 support of the goals and recommendations to
25 our Governor and Legislature. Our Chairman

1 has indicated his support for these goals and
2 recommendations. And tomorrow our 11-member
3 Air Resources Board will consider their
4 formal adoption."

5 Thank you.

6 CHAIRMAN KEESE: Thank you very much.
7 I'm sure the audience is aware that this issue
8 will be before the ARB tomorrow. Mr. Fong. Mr.
9 Matthews.

10 MR. FONG: Were there questions?

11 COMMISSIONER PERNELL: I did have one
12 question, Mr. Chairman.

13 CHAIRMAN KEESE: Commissioner Pernell.

14 COMMISSIONER PERNELL: And that is the
15 recommended alternative fuel efficiency -- the
16 substitution options for net benefits of fuel,
17 that chart which was on page 10. And this goes to
18 some of the recommendations for the alternative
19 fuel.

20 My question is, I guess, more of a
21 statement. And that is that regardless of whether
22 the alternative fuel is mentioned either on this
23 chart or anywhere else in the report it doesn't
24 exclude any alternative fuel technology as we go
25 forward with this, does it?

1 MR. FONG: No, it doesn't. In fact, I
2 think in the report we actually clearly state that
3 all of the various potential contributions from
4 these nonpetroleum fuels are likely to be needed.

5 We also clearly state that the results
6 that we project are based upon our best
7 information today. We recognize that R&D is a
8 dynamic process and that new developments that we
9 can't necessarily accurately predict today may yet
10 occur to bring many of these nonpetroleum fuel
11 options up to the threshold that we believe merits
12 additional consideration for deployment in the
13 future.

14 COMMISSIONER PERNELL: Thank you.

15 CHAIRMAN KEESE: Thank you very much. I
16 think it seems that we have some interest in the
17 audience. I have a dozen cards here of people who
18 would like to speak to this issue. If there are
19 any additional individuals or representatives of
20 groups who wish to speak, please get your card up
21 here.

22 We'll start again with Mr. Bishop,
23 representing WSPA. Did you want to repeat your
24 comments on the first issue?

25 (Laughter.)

1 DR. BISHOP: Yes, I wanted to
2 reemphasize the SFR report was very well done.

3 (Laughter.)

4 DR. BISHOP: My name is K.C. Bishop; I
5 am a Senior Consultant for ChevronTexaco
6 Corporation; and I am here representing the
7 Western States Petroleum Association.

8 We believe the SRPD report, staff
9 report, and the recommendations, particularly when
10 compared with the SFR report that we just
11 discussed, are like from two separate and just
12 diametrically opposed points of view.

13 In fact, we come to the same conclusion
14 when we reviewed the California Energy Action
15 Plan. Both that and the SFR talked about the need
16 for low cost energy in California and to let the
17 market provide it so that we could have the most
18 efficient delivery of energy to our state that we
19 could get.

20 This particular report, however, goes
21 almost in a direct opposite direction. In fact,
22 what it does is it kind of -- it brings to mind
23 the whole debate we've had with the federal
24 government, that is California, over the mandate
25 of ethanol, because a government agency, at one

1 point, decided it was the right thing to do. And
2 how we've forced that into our fuel supply and the
3 costs to the motorists, to gasoline taxes and
4 basically just to the disruption of our gasoline
5 supply in California.

6 It's that same mandated approach that
7 will invent the right solution and simply impose
8 it that runs throughout this report.

9 The SRPD report states that the strategy
10 will dampen fuel demand and moderate price impacts
11 on the California economy. We don't think there's
12 a rigorous analysis in this report that justifies
13 that statement. And as a counterpoint in the SFR
14 report, it was pointed out that normal volatility
15 is part of any well run, established market.
16 There will be volatility.

17 And probably more important, as a
18 commodity, California and the rest of the United
19 States, for that matter, has enjoyed a declining
20 real cost of gasoline for the last 50 years. And
21 while there is volatility the real cost of the
22 commodity has, in fact, decreased.

23 Again, going back to our testimony on
24 SFR, if the goal is to provide cheaper and better
25 energy for California we should be talking about

1 ways that we can actually remove barriers for not
2 just gasoline and diesel, but for all fuels that
3 need to compete in California.

4 And one of the things that to me is
5 actually burdensome, and I don't know if
6 burdensome is the right word, it's kind of
7 confusing, California, as you know, has the
8 strictest environmental laws in the world. And
9 our refineries are the cleanest.

10 Our cleaner burning gasoline is
11 unsurpassed and is sort of a model, as we know,
12 for the rest of the United States. And our diesel
13 sort of led the way; and, in fact, we're
14 continuing to do that.

15 So, we ought to be celebrating how
16 successful we've been. In fact, we've gone
17 entirely the other way around and said we really
18 don't want these products in California. That we
19 really shouldn't have done them. That maybe we'd
20 have been better off if we went another direction
21 ten years ago. And I find it troublesome to say
22 why a sudden need for a forced reduction of fuels
23 now in California.

24 One of the main arguments in support of
25 that, which you've just recently heard summarized,

1 is for the environment. Well, first of all,
2 emissions from refineries and all of the petroleum
3 distribution system in California have been
4 declining. And they'll continue to decline as
5 California's permitting systems get better and
6 tougher. And as our technology evolves. And
7 California has led the way on a whole host of
8 things that I certainly don't have to remind the
9 ARB or Mr. Boyd about.

10 But, as an example, the Air Resources
11 Board talked about the criteria emissions that we
12 need to get rid of from cars and diesel -- from
13 gasoline and diesel. It's clear from just what's
14 on the books at ARB, particularly the automobile,
15 in 20 years is going to be incredibly clean. The
16 emissions from automobiles, despite growth, are
17 going to be nearly trivial. And I think other
18 people today are going to talk about that.

19 But it's really important to note that
20 we have laws that say in 20 years these cars are
21 going to be clean. So to talk about today's cars
22 as the need to remove things for some hypothetical
23 reason in 20 years simply doesn't hold together.

24 The climate change, protection of the
25 Middle East, guessing what OPEC's response would

1 be to a decrease of demand in California, one
2 economist described that as sophomoric. And, in
3 fact, was less complimentary than that, because he
4 said sophomoric would imply that this guy really
5 had done a real economic analysis. We don't
6 believe you have.

7 The report's recommendation for CAFE
8 standards as the primary way to get 15 percent.
9 But what it doesn't say is exactly what would the
10 alternative be if the federal government chose not
11 to double CAFE standards. What part of this is
12 supposed to come from things that California
13 controls? What percentage is California planning
14 on doing? What are the recommendations that
15 California should do regardless of CAFE standards,
16 if all of these things are, in fact, cost
17 effective? Then we ought to do them whether or
18 not the federal government does CAFE or not.

19 And yet the report says, well, 15
20 percent, but we don't really need 15 percent if
21 the federal government doesn't do what they're
22 supposed to.

23 The report also says that there appears
24 to be reasonably achievable and cost effective
25 ways to reach the 15 percent goal. And the

1 primary emphasis is that people will go out and
2 see a benefit from cars that have a greatly
3 increased fuel efficiency. There are cars out
4 there in the market now that do. They're
5 competing. We welcome their competition.

6 I mean the auto industry is fighting
7 among themselves to try to provide what the
8 consumer wants. And if they succeed, those cars
9 will be there. But not because they were mandated
10 by government.

11 The other thing that's, I think, really
12 important in this whole debate, and it runs
13 throughout the calculations that are done in this
14 report on the alleged cost effectiveness. And
15 that is that none of the benefits of moving
16 people, having people have the ability to go where
17 they want when they want, where to move goods and
18 services, are actually included in the report.
19 They're simply taken, I guess, as a given.

20 And, in fact, should we run the same
21 calculations on outlawing all driving and all
22 diesel and all gasoline. You'll get a very cost
23 effective solution, yet one that clearly isn't
24 feasible; and one that clearly isn't something
25 that is anticipated, certainly, I know, by your

1 Board and I'm certain by most Californians.

2 In summary, we're really disappointed.

3 After seeing the SFR report where we thought you
4 did a really excellent job of understanding how
5 markets work, and the Energy Policy Report, where
6 you were looking to have a broad variety of fuels
7 brought in using the market, we found this report
8 essentially going the other direction.

9 And we'd really like to urge you to put
10 this over and take another look and see what the
11 market's going to do, and see if that can't
12 provide the benefits that California wants. And
13 finally, to realistically look at the benefits of
14 moving people and goods and services around the
15 State of California.

16 Thank you.

17 CHAIRMAN KEESE: Thank you, Mr. Bishop.
18 I will answer your last question which is that
19 you'd like us to continue to look at this issue.
20 This issue, as you alluded to, will also be
21 incorporated into our IEPR, our Integrated Energy
22 Policy Report, coming out in November, which is a
23 living document. Which will be issued, or adopted
24 by the Administration, hopefully, between November
25 and February 1st. And then will be amended next

1 year and will be rewritten in two years.

2 So you have a forum for continuation of
3 this issue in the public forefront as a living
4 document.

5 DR. BISHOP: I appreciate -- excuse me.

6 CHAIRMAN KEESE: I am absolutely certain
7 that you participated in the discussions on 2076
8 when it was before the Legislature.

9 DR. BISHOP: That's correct.

10 CHAIRMAN KEESE: We choose, as a
11 Commission, I'm not speaking for the ARB here, not
12 to be recalled, which means when we are asked to
13 do a report on what could be done to reduce
14 petroleum dependence, we have to answer.

15 Our answer cannot be nothing. And we
16 were also asked to make some recommendations. And
17 it's clear, I believe, to the Committee, and I'll
18 let them speak for themselves, but it seems it was
19 clear to the Committee that the best thing would
20 be enhanced CAFE standards. And that's what they
21 hinged the report on.

22 With an ability, and I would imagine in
23 the IEPR process that will be continuing, to look
24 at if the State of California, through its
25 senators, through its congressmen, through its

1 administration, cannot effectuate that.

2 So I just want to make clear for the
3 rest of the witnesses we were told we must do a
4 report, along with the ARB, and we have done the
5 report. And it indicates where the options are.

6 It moves back to the Legislature now.
7 The Legislature decided to tell us to do this
8 report. We're doing it for the Legislature. And
9 the forum for deciding whether the state should go
10 forward moves to the Legislature. We do not have
11 carrots; we do not have sticks. We give a report
12 and they're going to go forward.

13 DR. BISHOP: And I do appreciate that.
14 Again, to contrast this with the SFR process where
15 the -- and I think the important thing is to, in
16 fact, get the underlying facts and recommendations
17 right. And I think that happened in the SFR. And
18 I think the original recommendations that came out
19 were, in fact, a little more mandated storage than
20 we thought, especially the initial reports.

21 And in the clash of ideas, as more
22 economists and the understanding of the market,
23 which I think all of us learned a lot about, as
24 that happened we refined our ideas and came to
25 different conclusions about what we could do to

1 help California motorists in California to have as
2 much stability as we could, but certainly adequate
3 supplies.

4 I think in contrast what's happened on
5 this is when we finally had the recommendation,
6 which was different, I have to admit, than I think
7 anybody anticipated, we really haven't had a
8 chance for that crucible to bring in other
9 economists to really find out now whether or not
10 15 percent -- whether those particular numbers, in
11 fact, provide the goods and services to California
12 at a real benefit. I think that should be part of
13 the report.

14 CHAIRMAN KEESE: Well, I'll look forward
15 to the industry's suggestion on how we can reduce
16 petroleum dependence in other ways.

17 DR. BISHOP: Thank you.

18 CHAIRMAN KEESE: Thank you.

19 COMMISSIONER PERNELL: Mr. Chairman.

20 CHAIRMAN KEESE: Commissioner Pernell.

21 COMMISSIONER PERNELL: Mr. Chairman, let
22 me, first of all thank you, Mr. Bishop, for being
23 here. But let me try and answer one of your
24 previous questions which was we should maybe delay
25 and let's see which way the market is going. And

1 I want to remind you that that was the attitude
2 for AB-1890 and for the electricity. And we see
3 what that got us. So I'm not sure that we should
4 just sit back and wait on the market.

5 One just kind of, and you may not speak
6 for WSPA on this, but in your opinion do you think
7 that California, or indeed the country, should be
8 less dependent on foreign oil?

9 DR. BISHOP: The oil market is a world
10 market, as you know. And I think the premise is
11 that somehow California is an island that's
12 separated from the rest of the United States. And
13 we may be. We talk about ourselves as an island
14 for California gasoline.

15 But I think the reality is that what
16 happens in California, it's a small part of what
17 happens in the entire world oil market.

18 So, in effect, if California, for
19 instance, significantly quit using oil totally,
20 and OPEC thought that that was bad, I mean
21 historically what would happen with OPEC is
22 they'll, you know, they'll somehow do what's best
23 for them and not what's best for us. If they want
24 a certain amount of money they'll do it; if we
25 decided to do alternative fuels and stuff like

1 that, who knows. They may flood the market with
2 cheap oil.

3 I don't think any of us really have the
4 ability to think, or should have the ability to
5 think that California really changes the defense
6 of the Middle East, what OPEC does.

7 I think the best chances for California,
8 as this Commission knows, is to provide that
9 diversity of energy resources.

10 As you know, my company and many others
11 in WSPA are really interested in LNG, and in fact
12 Fischer Tropsch diesel. But all of those we think
13 will happen when it's time in the market. And we
14 all want to bring those supplies into California.
15 And they compete. I mean right now LNG, CNG
16 compete for, you know, diesel and for gasoline.

17 COMMISSIONER PERNELL: Is that a yes?

18 DR. BISHOP: I think it's more that you
19 have to -- it's a competition in the world over
20 petroleum, and it's among all energy sources; it's
21 not just in California by itself. It's cost and
22 what you can really do for basically mankind to
23 move goods and services.

24 COMMISSIONER PERNELL: Well, you're
25 indeed good at what you do, Mr. Bishop.

1 DR. BISHOP: Thank you, sir.

2 (Laughter.)

3 COMMISSIONER PERNELL: Thank you.

4 CHAIRMAN KEESE: Thank you, Mr. Bishop.

5 Norma Glover, please. Welcome back.

6 MS. GLOVER: Good morning. I just
7 wanted to make some statement concerning the
8 report. I am Norma Glover, Chairman of the
9 California Natural Gas Vehicle Partnership.

10 The California Natural Gas Vehicle
11 Partnership is a consortium of 38 public and
12 private partners that draws from a cross-section
13 of industry's interest and expertise. Combining
14 resources, the Partnership works to increase
15 awareness, acceptance and implementation of clean
16 burning natural gas vehicles.

17 The partnership supports the staff
18 recommendation that the Commission adopts a policy
19 to reduce gasoline and diesel fuel demand to a 15
20 percent below 2003 demand levels by 2020,
21 maintaining that level for the foreseeable future.

22 The Partnership also supports the
23 recommended goal to increase the use of
24 nonpetroleum fuels to 20 percent of onroad fuel
25 consumption by 2020 and 30 percent by 2030.

1 These are meaningful targets and our
2 industry will strive to support California in its
3 effort to meet these targets. However, the
4 Partnership would like to emphasize the importance
5 of proceeding toward achieving these goals
6 immediately, since federal improvement to CAFE
7 standards should not be relied upon as a key to
8 California's success.

9 Thank you for the opportunity to share
10 these comments. And I'd also like to add our
11 appreciation to the staff in the consideration of
12 previous comments that we submitted.

13 CHAIRMAN KEESE: Thank you very much.
14 Michael Eaves, please.

15 MR. EAVES: Good morning. My name is
16 Mike Eaves; I'm the President of the California
17 Natural Gas Vehicle Coalition in California, and
18 we are a trade group representing engine and
19 vehicle manufacturers and fuel providers that have
20 been engaged in trying to build a sustainable
21 natural gas vehicle industry in California and the
22 U.S. for the last 14 years.

23 The Coalition would like to compliment
24 the Energy Commission and the Air Resources Board
25 for a very comprehensive report. And we have been

1 engaged in the debate for the entire time. And
2 while we don't agree with all aspects of the
3 report, we're definitely supportive of the overall
4 goals and recommendations in the report.

5 We agree with the goal to reduce
6 petroleum by 15 percent, and to increase the
7 alternate fuel goal to 30 percent by the year
8 2030.

9 We're also pleased that the Energy
10 Commission and Air Resources Board listened to the
11 industry comments on the initial draft report and
12 revised that accordingly. We're getting to the
13 point where California needs to begin with strong
14 goals and recommendations that are included in
15 this report.

16 California NGV Coalition believes that
17 goals defined in the report are achievable, but
18 given the fact that the emphasis in increasing the
19 fuel economy rests primarily with the federal
20 government, we'd like to point out that the
21 reliance upon the alternative fuels for a fuel mix
22 in California is something that's directly in
23 control by the state.

24 The natural gas vehicle market in
25 California, in terms of petroleum displacement,

1 has grown over 800 percent in the last seven
2 years. And yet today it still represents less
3 than one-half of 1 percent of the transportation
4 fuels market in California.

5 The Coalition supports the process
6 involved over the last couple of years; we support
7 the report and the recommendations. And we
8 strongly recommend that the Commission approve the
9 adoption of this report.

10 Thank you.

11 CHAIRMAN KEESE: Thank you, Mr. Eaves.
12 Chung Liu.

13 MR. LIU: Good morning, Chairman Keese
14 and Members of the Commission, my name is Chung
15 Liu. I'm the Deputy Executive Officer for the
16 South Coast Air Quality Management District.

17 We have submitted to your staff a five-
18 page letter and hope you have a chance to look at
19 it, but I'm not going to go over the letter word-
20 by-word, but here I want to make a few statements
21 on a few issues here.

22 First issue is, we do have a little
23 problem with the number two recommendations.
24 Namely on page 17, recommendation to the last
25 sentence. Should the federal government fail to

1 implement the CAFE standard that double the fuel
2 efficiency of new cars, it will be necessary to
3 reassess the goal in recommendation number one.

4 I don't think anybody's going to argue
5 the merits of that statement. But you have a
6 strong position you want to really work and maybe
7 push the federal government to implement this fuel
8 efficiency, which we fully endorse.

9 Then you don't have a recommendation to
10 the Governor say well, suppose we don't do it,
11 we'll have to come back to talk about it. This
12 really is sound like a retreat before you even
13 charge.

14 And I think you can see where our
15 urgency on this matters. I agree with the
16 representative from WSPA saying that we should
17 separate a bit of the air quality improvement
18 maybe in the past, the (inaudible) industry as
19 well as a number of other industry make a
20 significant contribution to make this happen.

21 But we have to really tell ourselves
22 that we still have a long way to go. This year,
23 especially the past few weeks, give us alert that
24 we need to really really push for air quality.
25 Air quality was not improving just because a

1 regulation was done at this time.

2 So we really urge the Commission to
3 think about drop that sentence. That sound really
4 negative to us, like you want to really make it
5 happen, but you already prepare that it won't
6 work. I mean we know it's a long way to go. You
7 need the federal government work on it. I don't
8 need to (inaudible) on that again.

9 But the second point I want to talk
10 about is the role of CNG and LNG on this one.
11 While appreciate the staff make significant
12 revisions from previous versions, but we still
13 feel there is a little injustice on this one. The
14 definition of a near-term, which is by 2010,
15 should be fully implemented. That means the
16 technology should be there, should be able to use.

17 We at the South Coast have adopted a
18 number of fleet rules which encompass transit bus,
19 school buses, refuse haulers, heavy duty vehicle
20 taxis, shuttles. We have a rule in place, and a
21 lot of vehicles is bringing into the market. And
22 we have, at this juncture I can give you a
23 statistic that really we have a majority of our
24 transit bus in southern California are using
25 natural gas at this time.

1 We know in the next five years we
2 probably don't see too many diesel buses in
3 southern California anymore, as the technology is
4 there. So, we should really recognize there
5 already -- in the near term, and never mind the
6 medium term and long term.

7 So I really strongly advise the
8 Commission to really just recognize the fact. It
9 is the near-term strategy already is helping the
10 process here.

11 Lastly, we really strong advocates for
12 the gasoline -- as Commissioner Pernell and
13 Commissioner Boyd recognize that, the South Coast
14 really pushing this very hard. We have quite a
15 few projects going on this time. And we really
16 think that's about strategy for the near term and
17 long terms.

18 Thank you for your consideration of our
19 comments. I'm ready to answer any questions you
20 might have.

21 CHAIRMAN KEESE: Thank you very much.
22 Staff, have any questions?

23 COMMISSIONER PERNELL: Thank you.

24 CHAIRMAN KEESE: Thank you. Audrie
25 Krause.

1 MS. KRAUSE: Good morning,
2 Commissioners, thank you. In addition to the
3 comments that I'm going to make I wanted to give
4 you a letter from Jim Conran at Consumers First.
5 They're a member of our Coalition and he was
6 unable to be here, but did provide a letter. So I
7 guess I can leave that with the court reporter?

8 CHAIRMAN KEESE: Thank you. Right, the
9 Public Adviser.

10 MS. KRAUSE: I'm Audrie Krause and I'm
11 here today speaking on behalf of the Stop Hidden
12 Gas Taxes Coalition. It's a coalition of business
13 and consumer and taxpayer interests. And we have
14 concerns about the recommendations for the 15
15 percent reduction in petroleum dependence.

16 We do support energy conservation in a
17 competitive marketplace for all fuels, but we're
18 opposed to the recommendation to arbitrarily cut
19 consumer demand for gasoline by 15 percent because
20 it may mean increasing gas taxes or vehicle fees
21 and implementing other costly proposals.

22 It's apparent from the revised language
23 in recommendation number two that you did listen
24 to the objections we raised at the earlier joint
25 hearing of the Commission and the Air Resources

1 Board, and I want to thank you for attempting to
2 address our concerns.

3 Unfortunately, the small change that you
4 made in the final report doesn't adequately
5 address the concerns. Instead of --

6 CHAIRMAN KEESE: I'm sorry, did you read
7 the words? We do not recommend taxes.

8 MS. KRAUSE: Yes, we --

9 CHAIRMAN KEESE: That doesn't address
10 your concern?

11 MS. KRAUSE: No, it doesn't. What you
12 get back to is when you look at all the analysis
13 behind this small report ultimately you're relying
14 on changes in the federal fuel efficiency
15 standards to get to that goal.

16 CHAIRMAN KEESE: Correct.

17 MS. KRAUSE: And we have no quarrel with
18 going after the changes in the federal fuel
19 efficiency standards, but if getting to the goal
20 is dependent on that, then it would seem that
21 that's really the only recommendation you would
22 need to make to the Legislature is to work with
23 the federal government to change those standards.

24 Everything else that you are talking
25 about or looking at or have considered doing in

1 the more detailed analysis has a much more
2 insignificant effect on achieving that goal. And
3 in our mind that puts it back to the possibility
4 of having to look at costs and prices and gas
5 increases, gas tax --

6 CHAIRMAN KEESE: Okay, so what you're
7 saying is if the Legislature ignores our
8 recommendation and chooses independently to
9 suggest that there should be tax increases, you
10 object to that?

11 MS. KRAUSE: We object to tax increases
12 as a way of achieving that goal.

13 CHAIRMAN KEESE: Okay, and so your
14 objection is if the Legislature ignores our
15 recommendation, which is not to have gas tax
16 increases, then --

17 MS. KRAUSE: You are recommending --

18 CHAIRMAN KEESE: -- you've got a
19 problem?

20 MS. KRAUSE: You are recommending some
21 changes in demand that ultimately can't be met
22 except through changes in federal standards that
23 the state has no control over, or increases in the
24 cost of driving for consumers.

25 And if the recommendation is to go ahead

1 with that reduction in demand, we think we're
2 going to wind up with higher gas taxes.

3 CHAIRMAN KEESE: But only if the
4 Legislature ignores our recommendation. Would you
5 agree with that?

6 COMMISSIONER PERNELL: Which is not to
7 raise gas taxes.

8 MS. KRAUSE: Your --

9 CHAIRMAN KEESE: I mean I don't know how
10 we can say it more clearly. The Committee came
11 out and said, we do not recommend gas taxes or
12 fees.

13 MS. KRAUSE: Yes, I understand that
14 you're saying that, but you're recommending
15 changes in policy that can't be accomplished
16 except through increasing taxes or mandating fees
17 or burdening taxpayers in some other way.

18 PRESIDING MEMBER BOYD: I don't know how
19 you make that --

20 CHAIRMAN KEESE: You're less optimistic
21 than we are.

22 PRESIDING MEMBER BOYD: And I trust
23 you'll sign up with our coalition to approach the
24 federal government and congress about CAFE in
25 order to protect your constituents against --

1 MS. KRAUSE: I would be --

2 PRESIDING MEMBER BOYD: -- any future --
3 any future --

4 MS. KRAUSE: -- happy to work with you
5 on the --

6 PRESIDING MEMBER BOYD: -- hidden taxes.

7 MS. KRAUSE: -- on the federal fuel
8 efficiency standards.

9 CHAIRMAN KEESE: Sorry, go ahead.

10 MS. KRAUSE: Okay. We do think that it
11 would be more honest to address up front the
12 concerns about the potential cost to consumers,
13 not just in the recommended 15 percent reduction,
14 but in the recommendation regarding the use of
15 alternative fuels.

16 We have no quarrel with the idea of
17 increasing alternative fuels and their use in
18 California, but in the past when that subject has
19 come up it has generally been tied to mandates or
20 subsidies or other activities that ultimately add
21 to the cost of living in California for
22 consumers. So we do see problems with the
23 recommended 20 percent increase, also.

24 And, again, we feel that the report
25 should be more candid in what consumers and

1 taxpayers can expect if these ultimate goals are
2 adopted by the Legislature that you're
3 recommending.

4 And, again I want to point out that
5 Californians do rely on their cars to get to work,
6 to take their children to school, and shop for
7 groceries and pretty much everything else because
8 our state is not -- wasn't built and planned in a
9 way that makes it easy for most people to avoid
10 using their cars for their daily lives.

11 So we continue to wonder how when this
12 study was undertaken initially in response to
13 public concerns about gas price increases that the
14 recommended strategies for reducing demand for
15 gasoline will ultimately lead to gas price
16 increases. And that is the gist of our concern.

17 So, I want to thank you for the
18 opportunity to express our concerns, and I'd be
19 happy to answer any questions.

20 CHAIRMAN KEESE: Thank you very much.
21 Any questions here?

22 COMMISSIONER PERNELL: I just have one.
23 Your Coalition, are they -- I understand that
24 they're concerned about taxes. Do you know what
25 their view is on air quality?

1 MS. KRAUSE: I don't know that all the
2 interests in our Coalition would have a unified
3 view on air quality because the Coalition was
4 organized around these specific issues addressed
5 in these recommendations having to do with
6 reducing petroleum dependence and the effects that
7 has on taxes and consumers and businesses, and the
8 cost of doing business.

9 So I can't really speak to a position on
10 air quality.

11 COMMISSIONER PERNELL: Do you have a
12 position on air quality?

13 MS. KRAUSE: Personally?

14 COMMISSIONER PERNELL: Yes.

15 MS. KRAUSE: I'm in favor of good air
16 quality. Who wouldn't be?

17 PRESIDING MEMBER BOYD: And you don't
18 see any connection between the discussions of
19 alternative fuels in the past and what those
20 discussions have brought to the California public
21 in terms of things that make the air cleaner, like
22 cleaner burning gasoline instead of that blankety-
23 blank methanol that we used to always talk about?

24 MS. KRAUSE: What I can tell you that I
25 have seen in having driven here yesterday from

1 Santa Barbara. I had plenty of time to observe
2 what was going on on our major highway through the
3 state.

4 About eight out of the ten cars driving
5 on highway 5 yesterday that either passed me or I
6 passed were SUVs or light trucks. Very few were
7 cars like I was driving, a small energy efficient
8 car. And that's certainly a change over the years
9 that in my mind is not helping to improve air
10 quality.

11 But that does seem to be the way
12 consumers are going in terms of what their
13 interests are in purchasing vehicles in this
14 state. Thank you.

15 CHAIRMAN KEESE: Thank you.

16 COMMISSIONER PERNELL: Thank you.

17 CHAIRMAN KEESE: Russell Teall.

18 MR. TEALL: Could I defer my comments
19 until after Graham Noyes has spoken?

20 CHAIRMAN KEESE: All right. V. John
21 White.

22 MR. WHITE: Thank you, Mr. Chairman. My
23 name is John White; I'm here today representing
24 the Center for Energy Efficiency and Renewable
25 Technologies, which is a coalition of

1 environmental organizations and companies that are
2 working on energy efficiency and renewable
3 technologies.

4 We support the recommendations in the
5 report. I'm sure we could have some suggested
6 edits if that was what we were doing today, but I
7 think we've pretty much put a lot of time and
8 energy in. The Commission and its colleagues at
9 the Air Board have been very responsive to a lot
10 of the arguments that have been raised.

11 I think that as I hear the discussion
12 and the opponents I'm struck by really where I
13 think the public is, is that the cost of fuel, and
14 particularly the volatility in the price of the
15 fuel, is something that pops up periodically.
16 This Commission is the receptacle of a lot of the
17 questions and abuse. And I wish Mr. Schwartz and
18 some of the other people would be here to answer
19 those press calls when they come in when the
20 prices rise suddenly for no apparent reason.

21 I think one of the lessons Commissioner
22 Pernell mentioned, the electricity crisis. One of
23 the clear lessons of the electricity crisis that I
24 think is applicable to the petroleum dependence
25 issue is that reducing demand helps stabilize

1 prices.

2 I had the privilege of serving on the
3 Attorney General's task force investigating the
4 second-to-last run-up in the oil prices. And the
5 goal of reducing demand and looking out a few
6 years at the nature of our dependence, as it goes
7 forward, was one of the recommendations of the
8 task force and of the Attorney General that
9 ultimately led to Assemblymember Shelley, now the
10 Secretary of State, introducing and passing AB-
11 2076.

12 That lesson about demand being dampened
13 to reduce price volatility and the use of
14 diversity in alternative fuels are both, I think,
15 suggestive of a balanced reasonable approach to
16 what is a very very significant environmental and
17 economic problem for the State of California.

18 We cannot have steady increases in
19 demand without suffering consequences, both in
20 terms of the volatility of price and supply, and
21 also with chronic and ongoing environmental
22 damage.

23 The issue isn't just the air quality
24 impact of petroleum fuels or their impact on the
25 water or the waste. The burden that the oil

1 industry imposes on the California economy and
2 environment is significant. And it's growing;
3 it's not diminishing.

4 But there is also a burden that our
5 demand places on other parts of the world, on
6 other countries. When Alaska declines, as it
7 inevitably will, it already has started, we're
8 going to have to look further and further afield.
9 The Amazon rain forests, the coasts of Bolivia and
10 Columbia will be the new sources of petroleum.

11 And I think it is only responsible for
12 us to address our dependence with aggressive
13 measures to reduce demand. And I don't think it
14 should be underestimated the bully pulpit that the
15 State of California brings to the national debate
16 with respect to fuel economy standards.

17 The reason that the states have had to
18 step up and act is because the Congress and the
19 Administration have failed to act. And we need to
20 act on their behalf at least to the point of
21 advocacy. But I also think that the State of
22 California has significant influence on other
23 actions that it takes. I remember when SCAG, some
24 years ago, set a goal of reducing petroleum in the
25 South Coast as a key to attainment.

1 You know, we have, in the past, set
2 aggressive goals. We haven't met them all. But
3 if we hadn't set the goals we for sure wouldn't
4 have made progress on them. So I think if you
5 look at the progress we've made in the South Coast
6 and California in air quality it's in part because
7 we set aggressive goals not knowing always how we
8 were going to meet them. But we found a way to at
9 least make progress.

10 And I think this situation calls for
11 similar, set a goal, provide leadership, do the
12 best you can and keep working at it, keeping
13 refining the analysis. But I think it's
14 disappointing to hear Ms. Krause act as if the
15 only effect that dampening demand could have is to
16 increase prices, because I think the experience is
17 quite the opposite in the marketplace. That
18 reducing demand is good for consumers.

19 And I suspect that the funding of her
20 Coalition, coming from the oil industry, might
21 have something to do with the agenda that's being
22 presented here.

23 But I think the interest of consumers,
24 as a whole, lies with taking aggressive action to
25 reduce demand, accelerate the introduction of new

1 technologies, increase our use of alternative
2 fuels like natural gas in continuing to make
3 progress with regard to reducing the burden that
4 the petroleum industry causes on the health,
5 welfare and economy of the State of California.

6 Thank you.

7 CHAIRMAN KEESE: Thank you, Mr. White.

8 COMMISSIONER PERNELL: Thank you, Mr.
9 White.

10 CHAIRMAN KEESE: Mr. Gibson.

11 MR. GIBSON: I'm Ted Gibson representing
12 the SAER Group. And we have been asked by the
13 Western States Petroleum Association to comment on
14 the report. I do have a letter for the
15 Commission.

16 I guess there's several things I'd like
17 to cover, but there are two or three that I have
18 particular concern about. One is I did not think
19 the report fully developed or adequately developed
20 the case for the 15 percent and hold constant
21 goal. I think that's an extremely aggressive goal
22 for California.

23 And I guess I'm hearing today that it
24 was done mainly on environmental grounds, but I
25 think that, you know, our pollution standards are

1 such for motor fuel that we're going to get there,
2 you know, very very low emission vehicles by 2020
3 in any case.

4 But I think the main issues that I have
5 with the report that are bothersome to me, and
6 this is going to build in kind of a perverse way
7 on a previous speaker, is that I was very
8 disappointed that the Committee absolutely
9 rejected prices as a means of attaining any
10 petroleum reduction goal.

11 Because, to me, price increases or price
12 signals in the economy would be the most efficient
13 and least costly way to achieve these goals.

14 And I would even offer that if you're
15 successful somehow, and I'm very dubious that we
16 would be successful in getting a doubling of the
17 national CAFE standard, that you may find that
18 without some kind of a price mechanism to
19 reinforce that, that you're not going to attain
20 the goals.

21 I mean, you have to think about why it
22 is that consumers in the last decade or so have
23 really stampeded into large, heavy, fuel-
24 inefficient vehicles. That's because, I think, in
25 large measure, the real price of motor fuel,

1 gasoline, has been declining for the last 23
2 years.

3 And even, you know, given the recent up-
4 tick associated with the Iraqi situation, we're
5 still 20 or 30 percent lower than we were in real
6 terms in the early '80s. And it has really been,
7 I think, this constant decline in the real cost,
8 inflation-adjusted cost of motor fuel that has
9 allowed our consumers to express their wishes for
10 larger vehicles. And, you know, to a considerable
11 degree this expression, I think, reflects things
12 like safety concerns, not just the desire to drive
13 something huge.

14 CHAIRMAN KEESE: May I ask you one
15 question?

16 MR. GIBSON: Sure.

17 CHAIRMAN KEESE: Are you representing
18 WSPA, or is this independent?

19 MR. GIBSON: I'm representing WSPA, yes,
20 in a sense.

21 CHAIRMAN KEESE: Okay, and WSPA is
22 supportive of tax increases to increase the cost
23 of gasoline?

24 MR. GIBSON: I haven't asked them.
25 They've seen a draft of my comments and they

1 didn't object.

2 CHAIRMAN KEESE: It's uncharacteristic.

3 MR. GIBSON: That may well be, however I
4 think that their preference may well be simply to
5 have an explicit cost out there of the policy,
6 rather than trying to hide it, if you will, behind
7 a regulatory structure.

8 And I think that the CAFE would be
9 extremely costly. Of course, it would be shared
10 by the entire United States, since we can't do it,
11 ourselves. But there is obviously a tremendous
12 cost to CAFE in loss of consumer satisfaction.

13 You are telling a consumer who wants to
14 buy large heavy vehicles that they can't do so.
15 And I, for one, cannot envision what kind of a
16 vehicle, you know, we would be allowed to drive
17 under an on-the-road 40-mile per gallon standard.

18 I mean I thought I was being a good
19 citizen when I bought something that had a super
20 ultra-low emission label on the side of the car
21 two years ago. And that would be a gas guzzler,
22 and I guess a dirty vehicle by the standards that
23 are being proposed here.

24 So, you know, it's just hard for me to
25 envision what kind of vehicles we are going to be

1 told to drive under this kind of a regime.

2 And secondly, I think what will happen
3 if you get this sort of regime, which I don't
4 think you can, is that there's going to be a
5 tremendous premium on retaining and repairing and,
6 you know, keeping running the large population of
7 SUVs and pickup trucks and so on that are out
8 there. People find them useful; they find they
9 get satisfaction out of owning and driving those
10 things. And to, you know, hammer them this hard
11 with regulations, I think, is simply not going to
12 go down in a society that thinks of itself as
13 free.

14 And the taxes, you know, if you use what
15 I consider to be reasonable price elasticity
16 assumptions, long-run elasticity assumptions of
17 around $-.6$ or $-.7$ you could achieve the 15 percent
18 reduction with something like a 37-cent-a-gallon
19 tax increase in prices. And to hold steady you
20 probably would have to keep raising that tax in
21 real terms by around 6 percent a year. And end up
22 by 2030 at about \$1.25.

23 But at least I think it would be clear
24 to everyone, and they would respond, you know, in
25 their buying habits, those who really want and

1 need large vehicles would still be free to buy
2 those, but pay a price for operating them.

3 I think that, to me, is just an
4 economically much more rational thing to do than
5 to try to impose what would be a very unpopular
6 standard. And for that reason I don't think it
7 would pass.

8 CHAIRMAN KEESE: I would just observe
9 that tax increase proposals in California are
10 rather unpopular.

11 MR. GIBSON: My hunch you would have, I
12 mean this is just a personal opinion, you'd have a
13 better chance of getting a tax increase through
14 California than you would a 40-mile-per-gallon
15 over-the-road CAFE nationally.

16 CHAIRMAN KEESE: But to allude to the
17 European example where the taxes on gasoline are
18 probably six times what they are in the U.S. and
19 California, and you're suggesting that that is
20 effective in reducing --

21 MR. GIBSON: Well, there's no doubt that
22 people in -- I lived in the U.K. for several
23 years -- drive much more fuel-efficient, smaller,
24 much more fuel-efficient vehicles. When you're
25 paying the equivalent of \$5 or \$6 a gallon for

1 petrol, you are very very cognizant of how much it
2 costs to go anywhere. And, you know, the Brits
3 think of a 35-mile journey as a long journey.

4 CHAIRMAN KEESE: Thank you.

5 MR. GIBSON: And one other thing with
6 respect to the U.K., for example, is that the
7 person, the fellow who calls himself "Red" Ken
8 Livingstone, the Mayor of London, has instituted a
9 price-based congestion-relief program, charging 10
10 pounds, I think, for vehicles entering central
11 London during weekdays.

12 So that, you know, you've got an avowed
13 socialist, Ken Livingstone, taking that price-
14 based approach to congestion relief, which is
15 really another dimension here.

16 Just two or three other quick comments.
17 I think, you know, natural gas certainly is a good
18 fuel to be considering as an alternative or a
19 substitute for petroleum. I would offer, though,
20 that in the last couple of months I think serious
21 concerns have been expressed at the national
22 level, notably by Alan Greenspan, that we face, in
23 North America, a fairly severe shortage of natural
24 gas over the next several years.

25 And one way of relieving that shortage

1 would be to construct LNG conversion plants,
2 because natural gas remains a plentiful and cheap
3 fuel overseas. They're still burning it off in
4 the Middle East, as waste.

5 But to do that, to be able to bring that
6 to California you would have to construct LNG
7 conversion plants. I think there have been
8 several attempts to get permits to do that over
9 the last six to 12 months, and all of those have
10 been rejected.

11 So I think, you know, one dimension of
12 this, if we're going to rely on increased natural
13 gas, is we're going to have to accept LNG
14 conversion plants.

15 And one other thing has to do with
16 ethanol. I was amused at the irony that our
17 congressional delegation is trying to get some
18 relief from the ethanol requirement in gasoline.
19 And yet this report talks about increased ethanol
20 use in motor fuels in the years ahead. I'm just
21 wondering if perhaps we aren't, as a state,
22 wouldn't be looked at as being at cross-purposes
23 with ourselves, trying to get relief in the
24 ethanol requirement on the one hand, and promoting
25 ethanol use in a report like this on the other.

1 Those are a summary of my comments, and
2 I thank you for the opportunity.

3 PRESIDING MEMBER BOYD: Mr. Chairman.

4 CHAIRMAN KEESE: Thank you.
5 Commissioner Boyd.

6 PRESIDING MEMBER BOYD: I'd like to
7 thank Mr. Gibson for his testimony, as myself a
8 former Finance employee, it's always nice to see
9 another one still out there on the circuit.

10 And as you said, Mr. Chairman, if Mr.
11 Gibson's testimony is the position of WSPA with
12 regard to the ability to discuss price, those
13 alleged hidden taxes, he is indeed true then a ray
14 of sunshine has shone down on this debate today.

15 And I encourage you to carry your
16 argument forward to other forums, for instance,
17 there may be legislative forums; or this agency
18 will be holding forums on transportation fuel as
19 part of its Integrated Energy Policy Report.

20 Frankly, there are many of us who would
21 loved to have had a debate or discussion, a
22 dialogue, on pricing mechanisms and what-have-you.
23 Myself, for one. My 20 years in the air quality
24 business, we tried and tried and failed because
25 things like campaigns to stop hidden taxes timed

1 at a time when the sensitivity of the electorate
2 in the state is pretty high with regard to the
3 subject of taxes. And even though many pricing
4 mechanisms aren't taxes, aspersions are cast to
5 make them taxes. And frankly make not viable the
6 opportunity to discuss the subject at all.

7 We probably wouldn't be having this
8 forum today if we persisted in the desire to have
9 an open and frank and honest discussion of all the
10 possibilities. But I've heard some encouragement
11 today that just tells me that perhaps in the
12 future we will have a debate.

13 With regard to natural gas, the mobile
14 source use of natural gas is about as big as a
15 pimple on the backside of an elephant, and I don't
16 think will affect the natural gas issue in the
17 country. But your point is right, natural gas is
18 an issue. At last week's en banc hearing of the
19 three energy agencies the subject of natural gas
20 was discussed at length. The subject of LNGs
21 probably in California's future was broached by
22 some of us willing to broach that subject.

23 And I think your point is well taken on
24 the issue of having to address that. I don't
25 think many facilities have died for lack of

1 permits because the one that I have in mind never
2 even got close to asking for a permit before it
3 was politically driven out of town. But --

4 MR. GIBSON: The one is --

5 PRESIDING MEMBER BOYD: The one in the
6 Bay Area.

7 MR. GIBSON: Yeah.

8 PRESIDING MEMBER BOYD: But there are
9 many many projects in the queue waiting to be
10 discussed in California as soon as we establish a
11 climate, which I think we're doing, that would
12 make it a possibility to discuss that subject as a
13 way of assuring our economic vitality, as the
14 world's fifth largest economy, which is why, I
15 think, we talk about some of these things. And
16 why California can make a difference in the world
17 petroleum issue.

18 But, anyway, I just -- it's a long
19 thank-you for what you had to say. We're quite
20 cognizant of a lot of these issues. And I welcome
21 you to future debates, discussions and dialogue on
22 the subject.

23 MR. GIBSON: Thank you.

24 CHAIRMAN KEESE: Thank you. Before we
25 give Mr. Bishop --

1 COMMISSIONER PERNELL: Mr. Chairman.

2 CHAIRMAN KEESE: Did you wish --

3 COMMISSIONER PERNELL: Yes. Mr.

4 Chairman, this is not a question for Mr. Gibson,
5 just a observation of his testimony.

6 And that it was, in my opinion, I didn't
7 hear anything about the automakers and the new
8 technology that can be applied in vehicles that
9 will also reduce the petroleum consumption on that
10 vehicle.

11 So, surely, you know, as prices go up
12 and -- I mean your testimony was centered around
13 price and size of vehicle. And I think what was
14 absent in that was the fact that there are
15 technologies out there that the automakers have
16 that can get increased miles per gallon.

17 And that was perhaps not intentionally
18 left out, but certainly --

19 MR. GIBSON: Well, I don't know how, for
20 example, how far along fuel cells are, and
21 especially direct hydrogen fuel cells, but --

22 COMMISSIONER PERNELL: Well, I'm not
23 talking about fuel cells.

24 MR. GIBSON: Well, the point I'm making,
25 though, I skipped a step in there, that

1 automakers, in the long run, will make what
2 consumers want to buy. And if consumers are
3 paying \$3-plus a gallon for gasoline, they will
4 make fuel-efficient, small, fuel-efficient cars,
5 because that's what will sell. That's what you
6 find in Europe.

7 CHAIRMAN KEESE: But they've also been
8 successful in taking the Ford Taurus and making it
9 customer-acceptable and improving the mileage by
10 50 percent over the last eight years, so there
11 is --

12 MR. GIBSON: Yeah. And, you know,
13 absolutely, I think that's -- but, you know, 40
14 miles on the road implies to me that passenger
15 cars are going --

16 CHAIRMAN KEESE: Average, average.

17 MR. GIBSON: -- to have to be 60
18 probably.

19 CHAIRMAN KEESE: Average.

20 MR. GIBSON: Yeah, average.

21 CHAIRMAN KEESE: Mr. Bishop, I'll give
22 you 30 seconds.

23 DR. BISHOP: Thank you, Mr. Chairman.
24 With a noted economist like Mr. Gibson, obviously
25 we don't tell him what to say. His views are

1 certainly his, and we think it's really important
2 that you understand what the real cost would be,
3 even if it's hidden in regulations, of imposing
4 the kind of thing you're talking about.

5 And that was really the point of his
6 testimony, as I'm sure you all appreciate. So,
7 you know, he's his own man and that's the way it
8 should be.

9 Thank you.

10 CHAIRMAN KEESE: Thank you. Mr. Noyes.

11 PRESIDING MEMBER BOYD: Even sophomore
12 economists understood that message.

13 (Laughter.)

14 MR. NOYES: Good morning, Commissioners.
15 Thank you for the opportunity to address you. I
16 appreciate all the effort that's gone into this
17 report.

18 I work with World Energy; we're an
19 alternative fuel supplier. Also speaking as a
20 member of the National Biodiesel Board, the trade
21 association for the biodiesel industry.

22 Overall we certainly support and endorse
23 the underlying effort here. We support all the
24 recommendations that were provided in the report.
25 As specific to biodiesel we had some very

1 significant concerns regarding the step from the
2 recommendations to the recommended options, or the
3 highlighted options, or the discussed options.

4 And I appreciate Commissioner Pernell's
5 comment regarding the fact that the lack of
6 inclusion of a particular fuel does not indicate
7 that it shouldn't be included as a possibility
8 going forward.

9 On the other hand I would bring to the
10 Commission's attention the significance and the
11 responsibility and the respect of this Commission
12 in the overall approach to these problems in terms
13 of looking at technical solutions, sorting through
14 the very substantial analysis, and proposing
15 particular options as opposed to others.

16 The inclusion of one, the exclusion of
17 another is very significant in what's going to
18 drive policy ultimately. And I think everyone
19 appreciates that.

20 In looking at this step from
21 recommendations to recommended options, it seemed
22 to me the key thing to do was back up for a moment
23 and look at the overall picture of what AB-2076
24 was trying to achieve, and determine whether all
25 the methodology was appropriate for making that

1 step.

2 And so I went back to AB-2076 and took a
3 look at that and saw that there was extremely
4 limited language, extremely vague direction and a
5 very open-ended mission delivered to you. So, I
6 appreciate that situation. And I appreciate the
7 tremendous work that went into this. I think it
8 is completely appropriate for California to
9 undertake this, undertake it in a quantitative and
10 qualitative and proactive manner.

11 There are key societal and political
12 questions that underlie this, and I think the
13 sustained effort that everyone who worked on these
14 reports put in was well worth it. Long term this
15 is, I think, perhaps the largest societal problem
16 that we're facing right now, is petroleum
17 dependence. And it is extremely prudent to begin
18 to propose solutions and routes out of the
19 situation.

20 The problem with petroleum dependence,
21 if we break them down, we referred to them some,
22 the essential problem is dependency on a single
23 product. This is a dependency that's been growing
24 for the past 100 years. A product that has finite
25 supply, wherever you put that finite supply

1 ending. A product that is imported in increasing
2 amounts from politically unstable areas.

3 Related concerns to petroleum
4 dependency, collateral impacts of petroleum
5 dependency, air quality issues, soil and water
6 issues, global warming issues.

7 Underlying all of this analysis is what
8 we're focused on here, which is essentially
9 transportation. Petroleum is primarily used for
10 transportation in California; there's not a big
11 energy generation dimension to it anymore.

12 Transportation is a tremendously
13 practical and challenging realm. Everything needs
14 to be mobile, everything needs to be safe,
15 everything needs to be cheap. And it's been tough
16 to compete with diesel and gasoline for the past
17 100 years. To be successful solutions have to be
18 practical, as well.

19 In my mind the steps from your
20 recommendations for reducing petroleum dependency
21 have to be informed by these crucial concerns.
22 The best solutions are going to be solutions that
23 are available in the United States, preferably in
24 California. Solutions that are sustainable, and
25 indeed, renewable ideally. Solutions that are

1 environmentally friendly from a soil and air and
2 water perspective.

3 Solutions that are practical in terms of
4 fitting within the existing infrastructure. A
5 solution that is transparent like a biodiesel
6 solution or a Fischer Tropsch solution that could
7 go in through the existing infrastructure, that
8 can be used through the existing equipment.
9 Diesel has a life expectancy of 15 or 20 years on
10 a diesel engine. So if you're trying to displace,
11 being able to utilize those engines is
12 tremendously important.

13 And solutions that have proven track
14 records in terms of actually being used out there
15 in the marketplace; actually being priced out
16 there in the marketplace; and being fully tested.
17 Those are essential points, so that surprises
18 don't arise down the line.

19 The U.S. Marines facing, and have faced
20 a similar situation. They have an Executive Order
21 13149 that has told them to reduce their petroleum
22 use by 20 percent, I believe by the year 2005.
23 They have already met that goal within the
24 Marines.

25 They've done that primarily by switching

1 to biodiesel as a blending component for their
2 diesel fuel. Camp Pendleton, Twenty Nine Palms
3 are running completely on B20 in the noncombat
4 units. And that's a change they initiated because
5 biodiesel meets all these criteria. It's grown
6 here in the United States; it's produced in
7 California; it's grown from renewable sources and
8 waste oil sources. It's environmentally friendly.

9 And the reason I'm highlighting all of
10 these things is that these are factors that do not
11 appear to have been sufficiently integrated in the
12 step from the recommendations to the highlighted
13 options.

14 As to the environmentally friendly, if
15 you reference the task 1 report, appendix A, pages
16 215 and 216 shows all the heavy duty vehicle
17 options there.

18 Now, the preparers of that report, when
19 looking at biodiesel, somehow determined that it
20 should be given a negative value on the criteria
21 pollutants. I take strong exception to that. The
22 EPA has done a comprehensive analysis of biodiesel
23 emissions. They've found substantial emissions
24 reductions in every department except for NOx.
25 And the NOx increases are in the neighborhood of 1

1 to 2 percent with the B20.

2 And the independent determination in
3 this report to reverse what the EPA's found in a
4 comprehensive analysis of what I think is over 100
5 FTP testing, and what the EPA has verified through
6 their federal verification process is frankly not
7 supported in the report.

8 But even with that incorrect criteria
9 pollutant analysis, because of the tremendous
10 benefit of the greenhouse gases that biodiesel
11 reduces, biodiesel was the only heavy duty vehicle
12 option that had an environmental net benefit.

13 Somehow that did not get transported
14 from the substance and analysis of the report into
15 the conclusion of the report. The conclusion of
16 the report appeared to be driven primarily by the
17 cost, which I'll return to.

18 Finally, the other factor that I didn't
19 think was sufficiently analyzed was the proven
20 track record out there. Biodiesel has OEM
21 acceptance. It is now being utilized. It has
22 been tested through EPA tier 1 and tier 2
23 comprehensive testing. None of these factors went
24 from the step from the recommendations into the
25 highlighted options. And I would request that

1 this should be reviewed and changed.

2 CHAIRMAN KEESE: Let me -- I mentioned
3 at the front end that this is going to become a
4 living document through the IEPR process. I mean
5 this is a report. And then these issues will
6 live; this is probably one of the more living
7 areas, and I would suggest that Commissioner Boyd,
8 who heads up the Fuels Committee, will be
9 addressing this issue.

10 Jim, would you care to speak to that at
11 this point?

12 PRESIDING MEMBER BOYD: Well, I was
13 going to let the witness finish his testimony, but
14 I was going to say that I have been somewhat
15 influenced by all the material I've read of late
16 about biodiesel and the testimony I'm hearing
17 today.

18 I was going to ask the staff at the end,
19 maybe Dan can respond now, but there's no question
20 that this subject will get discussed more in our
21 continuing forum.

22 But the issue of county direct benefits
23 versus environmental benefits has been put on the
24 table by this spokesperson. And I'd just like the
25 record clear for us up here and the audience as to

1 the weight of environmental benefits vis-a-vis the
2 direct benefits, which are more the dollar sign
3 benefits, in the analysis that you've presented us
4 here today.

5 MR. FONG: Let's see if I can recall.
6 First of all we used a very balanced and objective
7 approach to look at these marginal costs and
8 benefits. We fully considered the various
9 environmental characteristics of all of these
10 different options, including their impact on air
11 quality, their impact on climate change, impact on
12 spills. Those were fully monetized for all the
13 various options. So those results are fully
14 included in our net benefit outcome.

15 And so for all of the various benefits
16 that might come from the use of biodiesel we fully
17 believe that we've incorporated those values into
18 our analysis.

19 And so at this stage if you look at the
20 net benefit results that we're displaying, yes,
21 there are times, at certain comparative fuel
22 prices, the net benefit for B20 did cross over the
23 threshold. But when you look at the mid-point
24 value of that particular option, it was negative.

25 We also looked at where these fuels

1 might compete in certain market sectors.

2 Biodiesel, especially B20, is primarily a
3 substitute for diesel in heavy duty vehicle
4 applications.

5 In the comparisons that we ultimately
6 used to build up our portfolio we looked at
7 Fischer Tropsch, because that is a primary
8 substitute for conventional diesel. We also
9 looked at LNG in heavy duty vehicles.

10 Both of those had higher net benefits
11 than either B2 or B20. And so we selected or
12 elected to highlight those because those fuels had
13 better potential application in the heavy duty
14 marketplace compared to biodiesel.

15 We understand that there may well be
16 advances in producing biodiesel at lower cost. In
17 fact, we looked at what we termed to be a mature
18 market condition for B100. Quite frankly, B100 in
19 that mature market condition is at a much lower
20 cost than current in-use opportunities.

21 We elected not to evaluate how biodiesel
22 might compete in today's marketplace, but instead
23 looked at a longer term potential mature
24 technology condition that might more accurately
25 reflect market conditions for that particular fuel

1 option.

2 Even with that assumed mature market
3 condition in our minds biodiesel did not compare
4 as well as some of the other ones that we
5 highlighted in building up the portfolio that
6 would reach our goal.

7 PRESIDING MEMBER BOYD: Anyway, thanks,
8 Dan. And as we said, we care and would like to
9 continue the dialogue on the subject. It has a
10 lot of promising attributes that are of extreme
11 interest to us. But I'd like to let you finish
12 here.

13 MR. NOYES: Commissioner Boyd, I keep
14 hearing the same comment over and over again.
15 Maybe I can add something that would help.

16 We did not say, you know, that the
17 portfolio that we put together is the answer, and
18 that the state should adopt our portfolio and
19 that's the only way. The only reason we, in fact,
20 even did a portfolio was to get to a
21 recommendation and show that there was a way cost
22 effectively to reach that goal.

23 We don't know what that, when we get out
24 in those further years, which of these fuels will,
25 in fact, be the winners. And I agree with a

1 number of commenters that we shouldn't be picking
2 winners at this point, but rather saying that
3 there's obviously, you know, we have a way that
4 looks pretty good to us.

5 There's biodiesel, among others, that
6 are out there that certainly could, you know, lead
7 the pack for all sorts of good reason that you've
8 already mentioned, and perhaps some others. And
9 we will be continuing to explore these as we go
10 forward and look at this in the IEPR processes
11 from here on.

12 CHAIRMAN KEESE: Thank you. Sorry for
13 the interruption, Mr. Noyes, but I thought we
14 should clarify where we -- where it sits.

15 MR. NOYES: No, I appreciate that and it
16 informs my comments here. And I want to say what
17 I'm trying to do, you know, obviously I work for
18 the company that sells most of the biodiesel in
19 the country, and everyone should know that. And
20 that's not unusual for someone commenting in these
21 proceedings.

22 As a result of that I have a great deal
23 of knowledge about that particular fuel, some of
24 which isn't sufficiently integrated into this
25 report.

1 I want to recognize again the great work
2 that went into this, and Mr. Fong has personally
3 spent time with us and others have, as well.

4 But there are some real specific issues
5 around biodiesel. And then there are some larger
6 issues that I think are germane to the larger
7 process. And I realize that this is not the
8 chosen portfolio. But I also think it important
9 to recognize that whatever makes it into the
10 highlighted options or the recommended options or
11 whatever you want to call them, you know, those
12 are the solutions that are going to receive the
13 most focus as, you know, certainly the top
14 competitors at this stage.

15 And there are a couple key issues with
16 that. First of all, in terms of Fischer Tropsch
17 being the mid-term option, I think it's important
18 to highlight what's in the substance of the
19 report, itself, task three, attachment B, at B-
20 219. And this is a quote: "The nature of the
21 remote location of feedstocks for Fischer Tropsch
22 diesel may be an issue, as many are the same
23 geographical locations as crude oil. Importing
24 large quantities of Fischer Tropsch diesel may
25 reduce the burden on petroleum diesel supplies,

1 but they may face the same geographic and
2 political issues as crude oil or refined products
3 from those regions."

4 Now, obviously this Commission is tasked
5 with petroleum reduction, but exchanging petroleum
6 reduction for another fossil fuel that mirrors
7 petroleum and some of its risk factors is
8 something that should be done with some concern, I
9 would think.

10 There is no factoring in the analysis
11 for the advantage of renewable fuel, the
12 sustainability of a fuel. From what I can tell
13 the environmental aspect of this, and if you look
14 at the various bar graphs you'll see that a B20
15 and a B2 are both can provide benefits, net
16 benefits, and are the only fuels that provide net
17 benefits on the environmental front.

18 The soil and water, the spill risks were
19 not figured in for biodiesel; for some reason that
20 was not analyzed. And I think that's frankly a
21 mistake. There's no analysis as to the
22 practicality for a near-term solution. Biodiesel
23 is something that's gone in three years from
24 essentially zero in the California market to 4
25 million gallons. There's no recognition of that

1 growth. And I think that's a real capability
2 that's significantly overlooked.

3 COMMISSIONER PERNELL: Excuse me. Mr.
4 Chairman, if I may, I --

5 CHAIRMAN KEESE: Commissioner Pernell.

6 COMMISSIONER PERNELL: -- I think that
7 you're a very good advocate for biodiesel, and
8 obviously you know a lot about it. And I think
9 Commissioner Boyd has said that he would like to
10 hear more about it. I think this Commission, as
11 well as Mr. Matthews, has recognized that.

12 And that as this process continues and
13 you interject those comments, and actually get us
14 something in writing with the benefits of
15 biodiesel as you have explained it here to the
16 Committee, I think it would be of benefit to the
17 biodiesel industry.

18 So, I guess what I'm saying is I think
19 you've made your point and you went a long way in
20 hearing and having us understand why biodiesel
21 either should be included or certainly recognized.

22 And I don't want you to hurt your
23 opportunity by continuing and being somewhat
24 redundant. So I would just suggest that you stay
25 in the process; that you get with Mr. Matthews and

1 Mr. Fong. And certainly Commissioner Boyd is
2 accessible; I am; and all of us up here, to make
3 that case.

4 And certainly thank you for being here
5 and pointing out the benefits of biodiesel. So,
6 I'm not trying to cut you off, I'm just making an
7 observation here.

8 MR. NOYES: Well, I certainly don't want
9 to belabor anything, and I apologize if any of you
10 feel like I've taken up too much of your time
11 today. Much of what I've tried to speak to is not
12 just specific to biodiesel.

13 But in terms of switching from one
14 fossil fuel to another, I think that's something
15 that's a real liability in this report, that this
16 Committee should recognize.

17 On the pricing front I also think
18 there's a real question in terms of taking at face
19 value some of the projections that were given for
20 pricing. There's the way that Fischer Tropsch
21 succeeds, as the mid-term solution here, is
22 because it's assumed that Fischer Tropsch is going
23 to cost less before 2010 when blended with EPA
24 diesel than CARB diesel is.

25 Now, I'll right now go out and negotiate

1 with anyone who will sell me Fischer Tropsch
2 futures at a discount on CARB fuel. I don't think
3 that's going to happen, and I think that's
4 something that needs to be brought to the
5 Commission's attention, as well, because what is
6 driving these ultimately is cost calculations.

7 If this is truly cheaper than CARB
8 diesel is going to be, you don't need to do
9 anything to make that change. The market will go
10 out and make that change if there's discounts
11 available.

12 Again, I thank you very much for your
13 time. I would -- we have formally submitted
14 comments which provide specific requests. And I
15 appreciate your efforts in this endeavor.

16 CHAIRMAN KEESE: Thank you, thank you
17 very much. Mr. Teall, we'll let you add to that,
18 hopefully briefly.

19 MR. TEALL: Thank you. I'll try not to
20 cover any of the same ground; that's why I wanted
21 Graham to go first is to get the biodiesel 101 out
22 of the way.

23 My name is Russell Teall; I'm the
24 President of Biodiesel Industries. I'm also a
25 member of the same trade association that Graham

1 is.

2 What our company does is we manufacture
3 biodiesel production equipment, operate it,
4 produce biodiesel and sell it both domestically
5 and in the international market.

6 And what I wanted to go over today other
7 than just endorsing what Graham had to say and
8 suggesting that you review the comments submitted
9 by our trade association, is to look at briefly
10 some of the economics of biodiesel because I'm
11 intimately familiar with it. And also some of the
12 potential in California for biodiesel, assuming
13 that there's a favorable regulatory environment
14 for it.

15 What I did is actually submit some
16 written comments via email. I'll give you a hard
17 copy as well, so that you have that.

18 But the first portion of it is a study
19 that was commissioned by the U.S. Department of
20 Energy for looking at biodiesel in California that
21 I wrote back in 2001. It goes through an economic
22 analysis, cost factors, labor, electricity,
23 siting/permitting requirements, capitalization,
24 return on investment in a very comprehensive way.
25 And then looks at feedstocks in California, as

1 well. What are the available feedstocks; how much
2 can be made, et cetera. And I've attached a copy
3 of that for your review.

4 There are some differences since 2001.
5 At that time there was no industry in California.
6 There's now a plant down in Coachella producing
7 about 6 million gallons a year. And plans on the
8 boards for another 60 million. So it's an
9 industry that's growing and it's attracting
10 capital resources.

11 Right now there are over 100 million
12 gallons of recycled cooking fats and oils in
13 California that could be turned into biodiesel.
14 Some of the advantages of the recycled product are
15 that the emissions characteristics are lower,
16 which is something we'd like to talk to your staff
17 about in terms of rectifying some of the
18 information on the emissions data.

19 There's also the potential for new
20 crops. I was recently at a conference in Delhi,
21 India, as a sponsored exchange from the U.S.
22 Agency for International Development. They're
23 taking a very aggressive stance about biodiesel;
24 and they're looking at oil-bearing trees. They
25 last 50 to 100 years; they produce two and a half

1 times more oil per acre than soybean oils, which
2 is the principal crop in the United States. And
3 they're highly suited to hot, arid climates with
4 very cold winters, very similar to the Central
5 Valley in California.

6 There's enough agricultural land in
7 California that's under-utilized to grow several
8 billion gallons of that particular type of oil,
9 and have an economic stimulus to farmers at the
10 same time on a cost effective basis for making
11 biodiesel competitive or near competitive with
12 petroleum prices.

13 Finally, there's crops like algae, very
14 avant garde, I guess. It's a new area that the
15 National Renewable Energy Laboratory has been
16 looking at, but it has over 30 times the yield in
17 terms of acreage of any known surface crop. And
18 it's something that can be coupled with a power
19 plant. They absorb CO2; that's part of the
20 feedstock. They absorb nutrients, and so the
21 coupling of algae ponds -- I was just over at the
22 San Jose wastewater treatment plant yesterday, and
23 they have all their algae ponds out there for
24 nutrient stripping purposes --

25 CHAIRMAN KEESE: Mr. Teall, what I heard

1 about this report is the report says there are
2 fuel substitution options.

3 MR. TEALL: Right.

4 CHAIRMAN KEESE: You're one of them.
5 The report adopts a couple of poster children.
6 You weren't one of the poster children. But
7 you're included in the group that this report says
8 is available to work.

9 We're getting a little bit into
10 committee work here because I don't want to hear
11 about electric vehicles and I don't want to hear
12 about methanol vehicles and the other 20 that are
13 on this list of the fuel option substitutions in
14 that much detail.

15 I'm willing to have you talk to the
16 Committee, --

17 MR. TEALL: Yes, sir.

18 CHAIRMAN KEESE: -- but as a Commission
19 what we're being asked to endorse is a report that
20 says there are options and they'll work. Without
21 choosing, as the staff has said, they're not
22 choosing. They've put a couple of poster children
23 up there to show what they would be, but yours is
24 one of them.

25 So, I would hope that in the forums that

1 deal with -- we had six workshops and a hearing on
2 this -- in the forums that continue to deal with
3 this in the future, I think this is more
4 appropriate testimony.

5 I gather you support the idea that there
6 are substitution options?

7 MR. TEALL: Absolutely.

8 CHAIRMAN KEESE: And that's what this
9 Commission at this hearing needs to know.

10 MR. TEALL: I think my only comment in
11 that regard is that it would have been better for
12 us, as an industry, to have --

13 CHAIRMAN KEESE: To have been a poster
14 child.

15 MR. TEALL: Or at least mentioned. Not
16 even a poster child. A step-child would have been
17 fine.

18 (Laughter.)

19 CHAIRMAN KEESE: All right, well, --

20 MR. TEALL: But there's no mention in
21 the recommendations whatsoever.

22 CHAIRMAN KEESE: You've been here;
23 you've gotten to talk to the two Committee Members
24 and staff has heard you, so I'm not rushing. I've
25 got nine more.

1 MR. TEALL: No, I understand.

2 CHAIRMAN KEESE: Okay?

3 MR. TEALL: I understand. Thank you.

4 CHAIRMAN KEESE: Summarize?

5 COMMISSIONER PERNELL: Thank you.

6 CHAIRMAN KEESE: Thank you. So I'll

7 just suggest that the -- I hope we can avoid
8 redundancy. If there's something that an earlier
9 witness has said that you really like, please
10 comment on it. If there's something that you're
11 going to add that we haven't heard yet, we do want
12 to hear that.

13 Michael Coates. I didn't mean to cut
14 you off from anything by my previous statement.

15 MR. COATES: Hello. Thank you for
16 allowing me to speak today. I'm Michael Coates;
17 I'm a Board Member of the Green Car Institute.
18 We're an independent, nonprofit, research,
19 educational organization working in the automotive
20 environmental field. Been -- testified many times
21 before CARB and have worked with the CEC and CARB
22 Staff on a variety of issues.

23 We did a white paper reviewing the
24 methodology and assumptions of the staff report,
25 which I've just given a copy to submit to the

1 Commission.

2 Hopefully this is a little ray of
3 sunshine and hope. We've been following this
4 process and have reviewed the draft report. We
5 looked at some of the same portfolio of options,
6 but more from a market perspective.

7 What we found is that petroleum
8 reduction is already underway. Industry trends
9 indicate that any state action may be premature
10 because state emissions regulations are driving
11 increased engine efficiency. And there's a
12 renewed and growing attention to fuel efficiency
13 by both automakers and consumers. And that many
14 new technologies in fuel, engine and other areas
15 are enabling these gains.

16 What we keep in mind as we looked at
17 these is that the consumer challenges of a new
18 technology is that it must be cost-competitive,
19 must deliver consumer benefits and it must not
20 make vehicle operation any more complicated.

21 Some of the industry trends that we'd
22 like to highlight include clean diesel, which is
23 going far beyond heavy duty vehicles. Diesels
24 provide a dramatic fuel economy improvement. It's
25 a current technology. And just as an example,

1 there's a 40 percent market penetration in Europe.
2 And they have a 200 percent growth in their light
3 duty diesels there in the last 12 years. I think
4 that's under-valued in the report.

5 Hybrid technology. Literally there are
6 reports daily on this, and the growth of this.
7 Toyota has a goal 300,000 hybrid vehicles
8 worldwide by 2005. GM has announced it has the
9 capacity to do a million hybrid vehicles in 2007.
10 Other companies are following this.

11 California is the leading market for
12 hybrid vehicles. And all indications are it will
13 continue to be. Toyota, for instance, sells 35
14 percent of their Priuses in California. Other
15 advanced technologies are also contributing to
16 increased efficiency. There's a proliferation of
17 PZEV vehicles in the state, an increasing number
18 starting with approximately 10 percent of the new
19 vehicle sales this year.

20 Light-weight materials are becoming
21 increasingly used. There are new alternative fuel
22 marketing products that are coming online,
23 products like the fuel, home refueling CNG
24 refueling product from FuelMaker. Ethanol, as was
25 noted in the report, is expanding. There's

1 currently a big push in the midwest for ethanol.

2 And fuel cells could accelerate much more
3 rapidly than are acknowledged in the report.

4 In addition there are some nonautomotive
5 factors that are also contributing to reduced
6 petroleum use. The smart growth land use
7 movement, master plan communities; neighborhood
8 electric vehicle communities, which we've done
9 some extensive research on. And there are other
10 factors that are dramatically affecting both the
11 VMT and fuel use.

12 So here are our suggestions for the
13 potential statistical impact that we would put up
14 as a moderate look at the year 2020. We see
15 hybrids as 20 percent of the market; clean diesel
16 as 20 percent of the market; advanced technology
17 vehicles as 50 percent of the market; and fuel
18 cells as 10 percent of the market.

19 Cumulative impact is a 62.5 percent
20 reduction in CO2 compared to 2000 levels.

21 So our conclusion is we feel that the
22 state can declare victory and move on. The
23 reduction of petroleum use is happening
24 organically. The state does have a role,
25 obviously you're given the role to monitor,

1 encourage and nurture these trends to reduce
2 petroleum use, such as encouraging high efficiency
3 vehicles, land use changes and innovate
4 alternative fuel approaches.

5 I've handed the white paper that goes
6 into this in much more detail. It's a report
7 that's also available on our website which is
8 www.greencars.org under our current projects.

9 Be happy to answer any questions you
10 have.

11 CHAIRMAN KEESE: Thank you very much.

12 COMMISSIONER PERNELL: Thank you.

13 CHAIRMAN KEESE: Questions?

14 PRESIDING MEMBER BOYD: No. I just very
15 much appreciate your optimistic view. Too many
16 years of experience have allowed me to be this
17 optimistic, but I'm encouraged to hear a lot of
18 these things. And we certainly would like to
19 follow them, and I think we'd like some more
20 dialogue with you in many of those areas. If I'm
21 not mistaken government has played a prodding
22 role, and it just doesn't happen, as some people
23 allege, leave the market alone, it'll just happen.

24 There's been a lot of nudging that I
25 think has helped. The question that we always

1 face is how far do you go before a nudge becomes
2 mandated, and where should you stop. And I think
3 that dialogue and debate should continue.

4 MR. COATES: Okay, thank you.

5 CHAIRMAN KEESE: Thank you. Mr.
6 Castleman. Tim Castleman.

7 MR. CASTLEMAN: Thank you. My name is
8 Tim Castleman; I'm with the Drive 55 Conservation
9 Project. I'll try to be brief and I'll try not to
10 be redundant.

11 Thank you for allowing me to contribute
12 my comments regarding this important issue. I
13 would like to recognize and thank all the hard-
14 working public servants, industry representatives
15 and special interest groups that have contributed
16 to this monumental task, the goal of which is to
17 reduce petroleum consumption in California.

18 The recommendations that come out of
19 this process will have far-reaching effects and
20 should be given careful consideration.

21 I'd like to first comment on the portion
22 of the recommendations that offer compressed
23 natural gas, liquid petroleum gas and liquified
24 natural gas as a significant part of the overall
25 solution.

1 Now, this comment, you see I'm not the
2 only one that's gotten this impression from the
3 report, that the poster child, the highlight, the
4 featured solution is natural gas. And the
5 legislators are counting on your expertise for the
6 recommendation. So it's going to appear that way
7 to them, too.

8 And I think the reliance on CNG as an
9 alternative fuel to displace gasoline consumption
10 fails to take into account the reality of actual
11 supplies, especially considering, as has been
12 mentioned already, recent testimony before
13 Congress by Alan Greenspan and the following
14 current statement on American Petroleum Institute
15 website: As of June 2003 supply and demand for
16 natural gas are delicately balanced; however,
17 natural gas prices are significantly higher than
18 this time last year. Some prices have doubled for
19 gas purchased by the companies that supply it to
20 consumers. Storage levels are at or near-record
21 lows, while demand for natural gas is growing. In
22 the short term, increases in demand due to
23 weather, hot summer and/or cold winter, could
24 stress the supply/demand balance. Also hurricanes
25 in the Gulf of Mexico could disrupt offshore

1 natural gas production and reduce supply.

2 The long-term supply outlook, factors
3 shaping long-term demand for natural gas, 80
4 percent of new electricity generating capacity is
5 natural gas fired. Demand is growing because
6 clean-burning natural gas is a preferred fuel due
7 to its environmental benefits.

8 The U.S. Department of Energy
9 Information and Administration forecasts that
10 natural gas demand will grow by more than 50
11 percent by 2025. The new domestic fields being
12 found are smaller and have shorter lives.

13 The short-term supply potential is
14 limited. In the short term there is not much
15 additional supply to be had. Some additional
16 volumes of liquified natural gas might be imported
17 and Canada may be able to provide a bit more
18 supply. Our nation is suffering from the legacy
19 of government policies that have discouraged the
20 development of domestic natural gas supplies
21 while, at the same time, encouraging consumption,
22 as this report does.

23 Substantial increases in supply cannot
24 be expected in the short term, as it takes a
25 number of years to develop and produce new

1 supplies and to build the pipelines needed to get
2 the gas to consumers. What can be done in the
3 short term is to emphasize energy efficiency and
4 to conserve our energy use." That's from API's
5 website.

6 We know from prior testimony that the
7 industry will be relying on imported LNG from
8 Qatar, that's the Middle East, to just two
9 facilities in California to meet the growing
10 demand, thus increasing our reliance on imported
11 fossil fuel rather than reducing it as AB-2076
12 requires.

13 The recommendations also strongly
14 suggest use of Fischer Tropsch blended diesel
15 which is made from the fossil fuels that AB-2076,
16 at least in spirit, seeks to reduce our reliance
17 on, rather than increase our reliance on imported
18 fossil fuel.

19 Further there has been testimony that
20 the process of making Fischer Tropsch will
21 actually result in increased CO2 emissions. This
22 leads me to my next objection to this heavy
23 reliance on CNG, LPG and LNG to reduce petroleum
24 use, which is the lack of reduction in pollution
25 using these fuels.

1 While it is true they will all burn
2 cleaner they do still contribute significant
3 amounts of CO2. And in some cases actually
4 increase overall emissions. We have better
5 options, which I will discuss in a moment.

6 The report talks about a new fleet for
7 government. The draft report recommends that
8 governing agencies get a new fleet of more fuel
9 efficient vehicles. I would only support this
10 initiative with the understanding that no vehicle
11 would be purchased that did not achieve a
12 significant fuel efficiency improvement of at
13 least 20 percent. And that at least 50 percent of
14 these new vehicles be dedicated alternative fuels;
15 with no more than half of those dedicated
16 alternative fuels vehicles using CNG, LPG or LNG.
17 And the other half using biofuels such as ethanol
18 and biodiesel.

19 State fleet vehicles should be
20 restricted to be driven no faster than 55 miles
21 per hour.

22 Alternative fuels. The recommendations
23 are heavily weighed to favor CNG, LPG and LNG as
24 the alternative fuels of choice. While it is true
25 these are not necessarily petroleum we will still

1 be importing them and they are all fossil fuels
2 and do not achieve carbon neutrality.

3 Biofuels can be produced locally and
4 since their feedstock are plants and trees, they
5 are carbon neutral, which means that when burned
6 for energy they will release carbon that has
7 recently been taken up by the growing biomass.

8 By overlooking biofuels as a significant
9 and important recommendation we are cheating
10 California farmers and rural communities out of
11 the development opportunities they will provide.
12 We are cheating our urban communities out of clean
13 reliable carbon-neutral fuel. And instead we are
14 continuing to send our citizens' energy dollars to
15 the Middle East to fund terrorism.

16 I want to open a conservation
17 conversation. More important than all of these
18 considerations is the near total omission of
19 conservation. While it is true that the measures
20 regarding improved tire and vehicle performance
21 and fuel efficient replacement tires will result
22 in a reduction in petroleum consumption, in
23 reality the reduction is negligible. We can do
24 much more.

25 By simply enforcing existing speed

1 limits and restoring the 55 mile per hour maximum
2 speed limit reductions of petroleum use of 20 to
3 50 percent may be realized, while emissions of CO2
4 will decline by 150 percent or more; NOx emissions
5 by 10 to 30 percent; and PM by 10 percent or more.

6 This concept is all too casually
7 dismissed as politically difficult, on a day when
8 we are under a spare-the-air alert, when it is
9 unhealthy for anyone to breathe outside, and when
10 we are at war in the Middle East to secure our
11 supply of these very substances we are addicted
12 to.

13 What will it take to bring about
14 awareness of the gravity of our reality? FEMA to
15 show up with gas masks?

16 The recommendations report also goes to
17 great lengths to discredit and eliminate from
18 consideration the concepts of fees and taxes that
19 equitably spread the actual costs supporting the
20 usage.

21 For example, vehicle registration fees
22 based on horsepower and weight could provide
23 incentives for buyers to purchase smaller, fuel
24 efficient vehicles. Instead we have a federal tax
25 break that actually encourages the purchase of

1 6000 pound or larger fuel hogs that aren't even
2 required to disclose their absurd rates of
3 consumption.

4 Political popularity should not even be
5 a part of the criteria for this report of
6 recommendations. Leave politics to the
7 politicians. The job of these agencies is to
8 report the facts.

9 Also missing from the staff's
10 recommendations is any mention of public transit.
11 A report released on July 22 of 2003,
12 Transportation Costs and the American Dream, by
13 the Service Transportation Policy Project states
14 that the working poor, those earning less than
15 \$13,908 per year, will spend a whopping 40 percent
16 of their income getting to and from their wage-
17 slave jobs due to the poor public transportation
18 system.

19 The report goes on to say: As
20 transportation costs rise, family budgets are
21 increasingly pinched. Unfortunately, the nature
22 of public investment and develop patterns has
23 created communities where families have little
24 choice but to rely on private cars and trucks to
25 reach jobs, stores, doctors offices and life's

1 other daily errands.

2 Today even running out to pick up a
3 gallon of milk can mean burning almost a gallon of
4 gas. Family expenditures on transportation have
5 grown dramatically, particularly since 1935, as
6 land use patterns have become more sprawling and
7 transportation choices have become fewer, to the
8 point where they are now the second highest
9 expense category.

10 Shifting government priorities to
11 increased public investment in transit and improve
12 existing assets to better accommodate more
13 transportation choices can greatly reduce the
14 household costs of transportation. Let's have
15 some leadership with these recommendations include
16 a vehicle speed reduction element to effect the
17 most significant improvements of all.

18 Thank you for your attention.

19 COMMISSIONER PERNELL: Thank you.

20 CHAIRMAN KEESE: Thank you. I will say
21 the Commission has been supportive of many of the
22 items that you've talked about on a regular basis;
23 not in this forum, not in this report, our website
24 contains most of that.

25 Mr. Fong, did you have any comment at

1 all?

2 MR. FONG: Yes. The staff did look at a
3 case of a 55 mile per hour speed limit. In our
4 analysis we estimated the gasoline reduction
5 potential and unfortunately it didn't compare as
6 well as the speaker's estimate.

7 We felt that better enforcement or
8 enforcement of a 55 mile per hour standard could
9 save the state on the order of 2 percent from its
10 current and projected gasoline consumption.

11 We also had testimony from the
12 California Highway Patrol that discouraged us from
13 really making that as an element of our
14 recommendation. There are a number of, I'm sure,
15 complex issues that the Highway Patrol would face
16 if a lower speed limit were to be adopted.

17 But, again, I think that that's a
18 measure that could be considered by the
19 Legislature. We have examined it. We believe
20 we've made an appropriate estimate of the demand
21 reduction that could come from that type of an
22 option.

23 CHAIRMAN KEESE: It's not in our
24 recommendations?

25 MR. FONG: No, it's not.

1 CHAIRMAN KEESE: Thank you.

2 MR. CASTLEMAN: I'd just like to add
3 that drive55.org is a section with reports from
4 the EPA and numerous other agencies that state
5 much better improvement than 2 percent. Thank
6 you.

7 CHAIRMAN KEESE: Thank you.

8 PRESIDING MEMBER BOYD: You do need to
9 work on the California Highway Patrol because Mr.
10 Fong is right. I have a letter in my hand that
11 says we appreciate that the report, quote, "did
12 not recommend a reduction of the maximum speed
13 limit to 55 miles per hour." So there's a
14 slippery slope there that has to be dealt with.

15 MR. CASTLEMAN: Indeed. Thank you.

16 CHAIRMAN KEESE: Thank you. Pam Jones.

17 MS. JONES: Thank you very much for the
18 opportunity to make one last final comment on this
19 report. My name is Pam Jones and on behalf of the
20 Diesel Technology Forum we're here today to make a
21 few comments.

22 Our members are the makers of clean
23 diesel engines, components, fuel and emissions
24 control, what makes up the clean diesel industry.

25 I'd also like to just comment that our

1 members are the ones that also make the engines in
2 the cars for the alt fuels; and that they are
3 putting considerable R&D dollars into the diesel
4 electric hybrids and into fuel cells. They, too,
5 have a portfolio that they'd like to spread out
6 and maintain.

7 We have been involved from the beginning
8 in the comments, and we appreciate that clean
9 diesel in light duty vehicles and in some heavy
10 duty uses has made it into the positive net
11 benefits category of this report. Some people
12 thought it wouldn't make it there at all, but I
13 think the combination of the 30 to 50 percent
14 greater fuel efficiency over gas, along with some
15 of the air quality issues that are being
16 addressed, has put it as a positive contributor.

17 We do disagree, and we have written in
18 our comments and with staff, on some of the
19 assumptions, some of the methodologies and some of
20 the calculations that were don in the report that
21 we do believe under-estimates the potential for
22 light duty diesel to be part of the solution in
23 reducing petroleum dependence.

24 For example, the report states a 10
25 percent penetration rate for diesel in making its

1 calculations. We understand that this has been
2 done for some consistency reasons. However, if it
3 were to take a perhaps more real world look using
4 Europe as an example, we think that you would see
5 significantly greater reductions in petroleum from
6 light duty diesel use.

7 In Europe you've got a market of 40
8 percent diesel right now; it's headed towards 50
9 percent. In luxury cars it's at about 70 percent.
10 And if the report had considered rates like that
11 we think it would have been more significant.

12 We did do our own study which we've
13 submitted to you by M3Cubed, same contractor that
14 the CEC uses for some of its work. That report
15 showed that if we had a 25 percent penetration
16 rate of light duty diesel by 2030 there would be a
17 very significant reduction, 430 million gallons a
18 year.

19 If a 32 percent penetration rate, the
20 rate would be 840 million gallons reduction. This
21 has been confirmed by other studies, Chrysler
22 being one, which also identified the significant
23 carbon dioxide reduction with light duty diesel,
24 on the order of 8 million tons a year.

25 The report recommends a doubling of the

1 CAFE standard, and I'm not going to mention
2 anything specific to that. There's many
3 disagreements even among our members on that.
4 However, I would like to mention that currently
5 available light duty diesel provides 40 miles a
6 gallon in many vehicles today and more, some of
7 them up to 60 miles a gallon.

8 Volkswagen sells all the TDI diesels it
9 can bring into California. There's definitely a
10 demand. And we get reports of 60-plus miles per
11 gallon on those. Daimler-Chrysler is going to be
12 addressing the SUV issue by introducing a light
13 duty diesel in its Jeep Liberty next year.

14 The questions, of course, are will light
15 duty meet the air quality requirements to make it
16 into the market. And will the consumers buy it if
17 it gets there.

18 On the first one we appreciate that the
19 report takes an optimistic look and assumes that
20 diesel will meet the air quality requirements.
21 And believe me, there are millions and millions of
22 dollars going into R&D to reach that.

23 On the second one, will the consumers
24 buy it. As I said, they're going off the floor
25 for Volkswagen right now. Last fall J.D. Powers

1 did a survey of consumers. They were asked, you
2 know, gasoline, diesel, electric, hybrid -- I
3 mean gasoline, electric, hybrids and diesel. And
4 the response was that 27 percent of those surveyed
5 said that they would consider a clean diesel
6 vehicle; 22 percent said they'd consider hybrids;
7 and 51 percent said they are going to stick with
8 gasoline.

9 To get a real reduction in petroleum
10 regardless of what the report says, regardless of
11 what the Legislature does with it, whatever
12 vehicles are out there are going to have to be
13 appealing to the consumers. They're going to have
14 to be affordable and practical and not take
15 tremendous price supports for infrastructure.

16 They're going to have to be affordable
17 to the individual consumer. And they will have to
18 address the air quality concerns including carbon
19 dioxide, which clean diesel does.

20 It's for these reasons that there is
21 optimism that clean diesel will continue to be of
22 interest and could be a significant player in a
23 portfolio to reduce petroleum consumption.

24 Lastly, I would like to let you know
25 that in the fall you all, along with the Air

1 Resources Board, and the Legislators and Staff
2 will be given the opportunity to see up close
3 clean diesel vehicles as part of high technology.
4 They'll be here in Sacramento; they'll be in the
5 Bay Area; and they'll be in Sonoma. I would
6 encourage you to see up close, maybe even take a
7 test drive, one of these vehicles so that you can
8 see why there is optimism, both on the consumer
9 front and on the petroleum reduction front.

10 Lastly, just thanks to the staff. This
11 was tremendously complex. It was very
12 contentious. And I admire their tenacity in
13 sticking with it.

14 Thank you.

15 COMMISSIONER PERNELL: Thank you.

16 CHAIRMAN KEESE: Thank you. And I
17 certainly hope your optimism turns out to be the
18 correct view. I would think that the fact that in
19 Europe it's \$4 or \$5 a gallon for fuel, or as Mr.
20 Gibson suggested, we should raise the tax by 37
21 percent to incent people might be driving factors
22 that slow us from getting to quite the 40 percent
23 that Europe has, --

24 MS. JONES: It may be --

25 CHAIRMAN KEESE: -- but I certainly hope

1 that what we see is vehicles of all kinds that
2 encourage people to drive vehicles that get higher
3 mileage per gallon.

4 MS. JONES: Right. And you're exactly
5 right. The fuel pricing structure is different,
6 but there's also the issue of performance that
7 drives consumer demand.

8 CHAIRMAN KEESE: Thank you.

9 MS. JONES: Thank you.

10 CHAIRMAN KEESE: Alden Bryant.

11 DR. O'LEARY: He isn't here yet. He's
12 coming from San Francisco; he should be here any
13 minute.

14 CHAIRMAN KEESE: Well, let me tell you
15 what my druthers are. Patricia Monahan.

16 MS. MONAHAN: Good afternoon. My name
17 is Patricia Monahan; I'm a Senior Analyst with the
18 Union of Concerned Scientists. And I'd like to
19 say, on behalf of our organization and the tens of
20 thousands of members statewide in California, that
21 we strongly support the goals in this final
22 document.

23 We've been involved for several years
24 now at all the workshops and participating in the
25 public process that I think both the ARB and the

1 CEC Staff has done a tremendous job in addressing
2 public comments and allowing for an extended
3 public comment period. And we feel that it's now
4 time to end this and to adopt these
5 recommendations.

6 We do feel that there are ways that the
7 report could be improved. We also have concerns
8 about Fischer Tropsch, about biodiesel. Like
9 WSPA, we also have some concerns about the fact
10 that all pricing mechanisms were not included in
11 the final report.

12 But, on whole, we think that this
13 represents a very positive step forward for
14 California. And we hope that the Commission
15 endorses these recommendations and moves forward
16 with this process.

17 We're pleased that this is going to be a
18 living document, that there's going to be further
19 opportunity for public comment and for changing
20 the cost effectiveness calculations as we get more
21 information about the true costs of these
22 measures. And we will, I'm sure, be involved in
23 that process.

24 Thank you very much.

25 CHAIRMAN KEESE: Thank you. Thank you

1 for the succinctness of your comments, also.

2 Brian O'Leary. Speaking on behalf of
3 himself and Alden Bryant, I think.

4 DR. O'LEARY: Thank you very much for
5 this opportunity to share. I received my PhD in
6 astronomy from UC Berkeley in 1967, and served as
7 a NASA astronaut, after which I became a Professor
8 at Cornell in physics; and then became an energy
9 policy expert, having work with Mo Udall when he
10 ran for president in 1975; and as a Senior Staff
11 Energy Advisor for him in '75.

12 And now I've returned to California.
13 And one of the reasons why is the free thinking
14 here. I think that we Californians share in our
15 hearts a willingness to embrace cutting edge
16 solutions to the grave problems we face in the
17 energy crisis.

18 And more than ever, we must now be
19 forward thinking and examine all viable options
20 before catastrophe strikes, whether it be war,
21 scarcities, pollution, climate change or
22 ecological economic collapse.

23 Our addiction to fossil fuels and
24 nuclear energy lies at the center of our demise
25 and can be overcome by an Apollo program to

1 develop clean energy, even beyond traditional
2 renewables such as solar, wind and hydrogen. I
3 believe the solutions are there if we simply
4 overcome our denials and ignorance.

5 In the short run a blend of conservation
6 and pursuing low emission options will help
7 enormously. But in the long run only new energy
8 solutions could solve the challenge. And we will
9 need to do much more to understand and embrace
10 these possible solutions.

11 The environmental movement back in the
12 '70s, when I was working for Udall, was very much
13 more optimistic. We thought we would have a clean
14 renewable energy economy by the year 2000. The
15 vision seems to have been subsumed within the
16 hubris of politics, greed and bad science.

17 "Time Magazine" this week declared you
18 can thank more than three decades of bungled
19 energy policies, get ready for more bungling.

20 I'm here to urge you to go deeper; to
21 set aside your preconceived ideas about solutions;
22 and to consider options that the U.S. Government
23 has heretofore suppressed. I'm here to propose
24 that the State of California study and support R&D
25 of selected new energy options, some of which may

1 have practical application in the near future, and
2 could be the cornerstone of a zero emission
3 future.

4 Being a physicist I would not have
5 thought these energy sources would be viable. But
6 after more than a decade of intense study and
7 travel to laboratories all over the world I have
8 changed my mind. Numerous technologies have been
9 successfully demonstrated to my satisfaction.

10 Included are low energy nuclear reaction
11 technology, sometimes called cold fusion; advanced
12 hydrogen technologies and zero point energy.
13 Unfortunately, some of these concepts do not have
14 public demonstrations yet, but they will happen
15 soon.

16 You may have heard the loud chorus of
17 skeptics naysaying the efficacy of new energy. At
18 the risk to my own career I have taken the
19 opposite position. Experiments and theories on
20 new energy keep moving ahead as irrefutable
21 results keep coming in and are published in the
22 peer-reviewed scientific literature.

23 We are in the research phase of an R&D
24 cycle awaiting sufficient funding to move forward
25 to commercial application.

1 There are many reasons to believe this
2 process could happen within years with adequate
3 funding, on the order of hundreds of millions, not
4 billions, of dollars. But the funding must come
5 from somewhere. And we have seen that private
6 dollars aren't ready to do this until somebody is
7 ready for commercial takeoff, and we are not there
8 yet.

9 We have the classic chicken-and-the-egg
10 problem, something that's happened in the history
11 of aviation and many other technologies. One
12 which the government traditionally fills. The
13 U.S. Government shows no interest in these
14 concepts. So I pose the question to you: Could
15 the State of California be willing to have a look?
16 Because if just one of these technologies proves
17 out as a practical energy source, we would be well
18 on our way to a clean and renewable energy
19 economy, perhaps just in time to avoid
20 catastrophe.

21 Would it not be a tragedy that the human
22 experiment fails because we did not have the
23 foresight to embrace the true answers because of
24 our own limitations of vision.

25 The energy crisis is a physical problem

1 demanding physical solutions that no amount of
2 political hubris, media spin or legal manipulation
3 could undo. But a concerted effort coming from
4 the public and government could.

5 There may not be as much fast money
6 doing this versus continuing exploitation of
7 fossil fuels until we run out or become extinct.
8 We have a choice now, either to slip ever further
9 into social suicide from current energy practices
10 or move into a new energy culture, even if, for
11 the moment, you perceive this as a long shot. I'm
12 here to say it isn't a long shot.

13 Let us dream for a moment. The Los
14 Alamos National Laboratories, managed by the
15 University of California, has become a center for
16 nuclear energy R&D, a technology which has now
17 proven to be dangerous for a number of good
18 reasons.

19 What if we phased in new energy at Los
20 Alamos, evaluating safety and environmental impact
21 all along the way? Some of its scientists are
22 already working on low-energy nuclear reactions
23 technology. Why not expand this effort? What is
24 the risk besides divested interests?

25 In the end we will have to make some

1 choices, I hope wisely. In spite of its current
2 budget problems ironically caused by the energy
3 crisis, itself, California has a unique
4 opportunity to step forward into the vanguard of
5 new energy development at very little investment,
6 and as an example to the world. Are we up for the
7 task?

8 Thank you very much.

9 CHAIRMAN KEESE: Thank you very much.

10 COMMISSIONER PERNELL: Thank you.

11 CHAIRMAN KEESE: I would observe that
12 we've lost 100 employees here in the last year.

13 DR. O'LEARY: I'm very sorry to hear
14 that.

15 CHAIRMAN KEESE: And there's going to be
16 other budget cuts, too. But, we are committed to
17 it and we have -- our staff is working on it so
18 that I would ask you to introduce yourself to our
19 staff and we'll work forward on these issues.

20 Mr. Hwang.

21 PRESIDING MEMBER BOYD: I'm going to ask
22 Dr. O'Leary to contact Dr. Rosenfeld here some day
23 and they should have a discussion.

24 DR. O'LEARY: Thank you.

25 COMMISSIONER ROSENFELD: Actually, if I

1 can say a word, Dr. O'Leary, and I was a physics
2 Professor at UC Berkeley when you got your PhD.

3 (Laughter.)

4 COMMISSIONER ROSENFELD: I'm a little
5 bit concerned with kind of a one-sided view. You
6 say, I may not be quoting you quite correctly, but
7 you say that in the short run energy efficiency
8 will help, but in the long run we got to have all
9 these new supplies.

10 I think we probably do need an Apollo
11 project for new supplies. But what's a lot less
12 of a bet would be to spend more money on getting
13 automobile efficiencies up to AER 120 miles per
14 gallon.

15 However lucky we are on fission, fusion,
16 hydrogen, whatever, it's going to take 30, 40
17 years to get there. And it'll be a hell of a lot
18 simpler to fuel a fleet which gets 120 miles per
19 gallon, which we know we can do, than one which
20 gets 20 miles per gallon which is where we're
21 stuck now.

22 So, maybe what you should be applying
23 for is two Apollo projects, one for efficiency and
24 one for some forward ideas.

25 DR. O'LEARY: I totally agree with you,

1 Dr. Rosenfeld. And I would just like to add that
2 a consideration of R&D of some of these energy
3 sources that have heretofore been considered
4 impossible is coming along a lot more rapidly than
5 we thought. And it should be taken into
6 consideration for the long term.

7 CHAIRMAN KEESE: Thank you very much.

8 DR. O'LEARY: Thank you.

9 COMMISSIONER PERNELL: Thank you.

10 DR. O'LEARY: I have a statement for the
11 record, too, so.

12 CHAIRMAN KEESE: Thank you.

13 DR. O'LEARY: Thank you.

14 CHAIRMAN KEESE: To our Public Adviser
15 right here.

16 Mr. Hwang, since you may be the last
17 witness, other than the one on the phone, I was
18 going to ask you to make it by 1:00. We'll give
19 you a few more minutes --

20 MR. HWANG: Okay, appreciate that.

21 CHAIRMAN KEESE: -- since we're there.

22 MR. HWANG: I have a short presentation.
23 I will be very succinct. My name is Roland Hwang
24 with the Natural Resources Defense Council. I
25 served on the Attorney General's gas price task

1 force, and I chaired the committee that made the
2 recommendation that as part of a balance portfolio
3 of a strategy to address constraints on our
4 gasoline supply and price-spike issues, that the
5 state look into efforts to reduce demand for
6 gasoline as part of a balanced approach. The
7 committee also included consumer groups, which
8 supported those recommendations.

9 I want to commend staff for putting
10 together this report. It's a very thorough job.
11 Again, we don't agree with everything in the
12 report, but in balance we believe it's a good
13 report and it's extremely helpful at this time,
14 that the Energy Commission and Air Resources Board
15 has brought this issue in front of the California
16 public to prevent an impression of a false choice
17 that Californians may have in terms of its future
18 gasoline supply.

19 We do not have to continue to import
20 more gasoline or build more refineries. There is
21 another way we can go, which is based upon
22 efficiency and alternative fuels.

23 Next slide. I wrote a report released
24 last fall called "Fueling the Future" which
25 addressed California's petroleum dependency.

1 Essentially the findings that I came out with was
2 that California's growing gasoline demand
3 endangers the state's economic and environmental
4 health. Inefficiency of motor vehicles is the
5 primary cause. And that it's technically feasible
6 to cut by 2020 passenger vehicle gasoline use by
7 20 percent below today's levels, while saving
8 drivers money and reducing pollution.

9 And as a consequence NRDC strongly
10 supports the Energy Commission and ARB's adoption
11 of the recommendations in the 2076 report.

12 Next slide. This is a slide which again
13 reinforces the issue that we're talking about in
14 terms of gasoline supply, which is that there's a
15 growing gap between demand and refinery capacity.
16 About 300,000 barrels per day.

17 Next slide, please. Which, if this was
18 met through increased supply, it means about four
19 new average-sized California refineries or one new
20 global-sized refinery being built somewhere. Or
21 it means moving a substantial amount of gasoline
22 from Texas, in another Energy Commission report on
23 a gasoline pipeline clearly points out, there is
24 no spare capacity in the Gulf coast, so that that
25 approach would not make sense.

1 But we are looking at substantial
2 amounts of imported gasoline, most likely, which
3 means my estimate is 370 more tanker trips just
4 for finished gasoline product.

5 Next slide, please. Since it is
6 unlikely that new refinery capacity of this
7 magnitude will be built in the United States or in
8 California, what we really are talking about is
9 California becoming a major importer of gasoline
10 from foreign countries.

11 And there is evidence from the USDOE and
12 Energy Information Agency which points out that
13 supply of refined products is growing scarcer on
14 the international market.

15 Next slide, please. At the same time
16 California will become increasingly dependent upon
17 crude oil imports from foreign countries in order
18 to keep its refineries running because Californian
19 and Alaskan production is decreasing. And this
20 source of the world's -- of this crude oil will
21 most likely be the Middle East, which controls
22 almost two-thirds of the world's proven oil
23 reserves. Iraq and Saudi Arabia being two of the
24 largest sources of imported crude for the State of
25 California over the last several years.

1 Next slide, please. California's demand
2 for finished product will have an impact on the
3 world market. As you can see here, California is
4 a substantial consumer, compared to the rest of
5 the world, of finished gasoline products. It's
6 the third largest consumer of gasoline in the
7 world.

8 And so California going into the
9 international market looking for increased
10 gasoline, finished gasoline supplies, will have an
11 impact on that market.

12 Next slide, please. So we expect that
13 there will be a growing volatility because of the
14 risk and probability of disruptions of that
15 gasoline supply and that crude oil supply similar
16 to what we saw over the last several years here in
17 California. And that situation will grow worse.

18 Next slide. The key here is that we can
19 invest in a different pathway, a cleaner, more
20 reliable fuel supply. And the cornerstone has to
21 be improving the fuel economy in every car and
22 light truck sold in California to a substantially
23 higher level, a higher level which is -- will not
24 affect vehicle choice.

25 National Research Council's fuel economy

1 report showed -- demonstrated that we can have
2 more fuel efficient vehicles in every category of
3 vehicles without restricting vehicle choice
4 whatsoever. So, there's little scientific debate
5 about that issue.

6 Other parts of the portfolio that I
7 looked at in my report was hydrogen
8 infrastructure; what we call smarter driving; and
9 smart growth.

10 Next slide. And what my results show
11 that we can get a 20 percent reduction from 2002
12 levels by 2020, or 40 percent reduction from 2020
13 levels by that time.

14 Next slide, please. One of the keys
15 here is in terms of resolving our volatility
16 issues is that we can eliminate gasoline imports
17 by 2011 under this package. Eliminating gasoline
18 imports will eliminate that element of the risk of
19 gasoline supply disruption. And as we know, the
20 California gasoline supply system is in delicate
21 balance. Small disruptions can lead to extremely
22 volatile price responses.

23 And furthermore, we can also reduce the
24 amount of crude imports that we're projecting in
25 the 2020 timeframe through this package.

1 Next slide, please. Again, this package
2 will also not just reduce volatility price-spike
3 benefits, creating a more stable fuel supply for
4 the State of California, but also will save
5 consumers money. And, of course, reduce air
6 pollution, global warming pollution and water
7 pollution.

8 Next slide, please. So, in conclusion,
9 I think California is at a critical path
10 crossroads here, since we are about to make
11 decisions in either the private market or by
12 prodding the private market in a direction in
13 terms of where we want to invest in future fuel
14 supply.

15 We can attenuate that demand and protect
16 the environment, protect our economy through a
17 pathway which doesn't rely simply upon expansion
18 of supply.

19 The success of this package, of course,
20 will rely upon -- will depend upon mutual
21 cooperation among all the different stakeholders,
22 government agencies, of course, the industry, auto
23 companies and oil companies, especially, and, of
24 course, the environmental community has a large
25 stake in this issue. And we believe that we can't

1 solve this problem in isolation. And we look
2 towards the industry, we look towards the
3 government agencies to -- and we hope that this
4 report will be adopted today by the Energy
5 Commission and the ARB tomorrow.

6 And we look forward to continuing a
7 dialogue about how to move forward with
8 implementation of achieving of the goals. Thank
9 you for your attention.

10 CHAIRMAN KEESE: Thank you.

11 COMMISSIONER PERNELL: Thank you.

12 CHAIRMAN KEESE: Gretchen Knudsen,
13 please.

14 MS. KNUDSEN: Good afternoon,
15 Commissioners. My name is Gretchen Knudsen. I am
16 the California Public Policy Program Manager for
17 International Truck and Engine Corporation.

18 International believes that the report's
19 inherent strength is its recognition that a
20 strategy to reduce petroleum dependence in
21 California will need to be a broad-based portfolio
22 of solutions.

23 International supports the report's
24 conclusion to improve fuel economy by using
25 existing and emerging technologies, specifically

1 diesel propulsion systems. Light duty diesel is
2 one of the solutions that we think can deliver
3 significant fuel economy benefits while meeting
4 the consumers' need for power and performance.

5 Although the report recognizes the rule
6 for existing and emerging technologies,
7 International believes that the rule of light duty
8 diesel is downplayed. Light duty diesels
9 typically have between 30 to 50 percent greater
10 fuel economy over gasoline counterparts. And
11 diesel technology has made enormous strides in the
12 last decade, using direct injection and lean-burn
13 engines. Diesel has improved fuel efficiency and
14 reduced engine noise and vibration.

15 Particulate filters and ultra low sulfur
16 diesel fuel have further reduced emissions,
17 especially particulate and hydrocarbon emissions.
18 Indeed, recent studies by the California Air
19 Resources Board, the Southwest Research Institute
20 and others have demonstrated that the emissions
21 benefits of advanced low emission light duty
22 diesel technology and diesel technology compared
23 to both -- delivered significant benefits compared
24 to both conventional diesel and CNG vehicles.

25 The introduction of ultra low sulfur

1 diesel fuel in International screen diesel
2 technology school bus over the last two years is a
3 clear indication that the technology is quickly
4 progressing.

5 Low emitting diesel is a proven cost
6 effective, near term solution that can deliver
7 immediate petroleum reduction benefits. It also,
8 the diesel engines also provide fuel flexibility.
9 If it is decided that other fuels should become
10 available in the market, diesel engines could
11 certainly accommodate Fischer Tropsch diesel and
12 biodiesel.

13 Lastly I just wanted to thank the staff,
14 both from California Air Resources Board and the
15 CEC Staff. They have done a tremendous job in
16 working with a whole group of stakeholders that
17 everyone had very definite opinions. And they had
18 exercised the willingness to meet with those
19 stakeholders to hold numerous workshops. And to
20 really consider all of the comments that were
21 being given to them.

22 Thank you.

23 CHAIRMAN KEESE: Thank you.

24 COMMISSIONER PERNELL: Thank you.

25 CHAIRMAN KEESE: We'll go to the phone

1 for Bonnie Holmes-Gen, if she's still on.

2 MS. HOLMES-GEN: I'm here. I'm not even
3 on the phone.

4 Bonnie Holmes-Gen with the American Lung
5 Association. There were no more blue cards out
6 there, so then I just gave them a card.

7 CHAIRMAN KEESE: Okay, that's all right.

8 MS. HOLMES-GEN: I wanted to state --

9 CHAIRMAN KEESE: Sorry, I thought -- do
10 we have anybody on the phone? That's for later,
11 okay. Thank you. Sorry.

12 MS. HOLMES-GEN: That's okay. I'm
13 Bonnie Holmes-Gen. I'm representing the American
14 Lung Association of California, and it --

15 CHAIRMAN KEESE: We weren't holding you,
16 we thought -- I thought you were on the phone.

17 MS. HOLMES-GEN: Okay. -- and it's
18 medical section, the California Thoracic Society.
19 And I'm here to tell you that we strongly support
20 the report before you, the AB-2076 report, and its
21 recommendations.

22 And we think that it's absolutely
23 essential to improving air quality in California,
24 and improving public health. And I know that you
25 are concerned about the deteriorating air quality

1 situation and the new information that we have
2 shows that 6500 people every year -- we're having
3 6500 premature deaths every year that are linked
4 to elevated particulate pollution.

5 We're having increased asthma attacks,
6 350,000 a year are linked to particulate
7 pollution. We have lung damage and reduced lung
8 function growth in children.

9 The public is extremely concerned about
10 the poor air quality and poll after poll shows
11 that poor air quality is number one on the
12 public's mind right now in terms of problems that
13 need to be addressed in California.

14 So, we urge you to move ahead; adopt
15 this report. We especially want to work with you
16 as you develop the list of strategies for
17 increasing alternative fuel use. That's a part of
18 the report that we think is very essential. But
19 we do want to make sure that as we increase our
20 use of alternative fuels that we're focusing on
21 alternative fuels that are not going to have
22 negative air quality consequences or increased
23 emissions of global warming gases. So we do want
24 to keep working with you on that piece of it.

25 Thank you for the extensive work, and

1 you've got an excellent and well-researched
2 report.

3 CHAIRMAN KEESE: Thank you.

4 MS. HOLMES-GEN: We support it.

5 COMMISSIONER PERNELL: Thank you.

6 CHAIRMAN KEESE: And I will thank
7 everybody who has given input here today. I think
8 we have heard all viewpoints except those from
9 people who felt that we hit their topic 100
10 percent on in this report. And I'm sure
11 Commissioner Boyd is happy he doesn't have to hear
12 from them, too.

13 Yes.

14 MS. MENDONCA: Chairman Keese, I have
15 several documents that need to be brought to the
16 Committee's attention on this topic.

17 One came from William J. Lyons, Jr.,
18 Secretary of the Department of Food and
19 Agriculture, who wished to comment that supportive
20 of the overall report but had concerns that the
21 recommended goal presented on pages 9 to 14 of the
22 draft report had set a realistic goal to reduce
23 the demand to 15 percent.

24 This goal could be achieved through a
25 combination of demand reduction strategies and

1 increasing the use of alternative fuels. The
2 report acknowledges the environmental benefits of
3 reducing greenhouse gases in two full paragraphs
4 on page 2 and 3.

5 However, the draft report on pages 10
6 and 11 fails to offer a viable near-term option,
7 the expanded use of renewable fuels. I can't
8 understand this omission, given the fact that in
9 less than two years California gasoline suppliers
10 have successfully incorporated a nonpetroleum fuel
11 component, ethanol, as nearly 5 percent of the
12 gasoline supply. This contribution should be
13 acknowledged and built upon.

14 It is not unreasonable to project that
15 10 percent of the gasoline supply could be met in
16 the near term. Given appropriate market signals,
17 biodiesel could become 5 percent or more of the
18 diesel fuel supply.

19 The March 2001 Energy Commission report,
20 costs and benefits of a biomass to ethanol
21 production industry in California concluded that
22 an instate production industry based on biomass
23 could help meet the state ethanol demands.

24 The report also concluded that
25 significant economic and environmental benefits

1 would also accrue, even justifying state
2 incentives to support industry development.

3 It is important and analytically
4 justifiable that renewable fuels be specifically
5 called out as a part of the alternative fuel
6 strategy to reduce petroleum dependence. Any
7 analysis of alternative fuels should include
8 environmental and economic costs and benefits.

9 I look forward to working with you to
10 develop comprehensive biofuel policy for
11 California as part of the 2003 Integrated Energy
12 Policy Report. Thank you."

13 CHAIRMAN KEESE: Thank you, and that
14 clearly is the appropriate forum.

15 MS. MENDONCA: The other two are --

16 CHAIRMAN KEESE: Yes?

17 MS. MENDONCA: -- very very brief in
18 that this is a coalition letter from the American
19 Lung Association of California, Bluewater Network,
20 Center for Energy Efficiency and Renewable
21 Technologies, Coalition for Clean Air,
22 Environmental Defense, Natural Resources Defense
23 Council, Planning and Conservation League, Sierra
24 Club, The Stephen and Michelle Kirsch Foundation
25 and Union of Concerned Scientists.

1 And several of those speakers have
2 already been here as individuals today, and
3 basically in summary this document also reports
4 and acknowledges California's vulnerability and
5 the need to reduce the state's oil dependence.

6 Believes the report presents a solid and
7 achievable goal to reduce California's onroad
8 gasoline and diesel fuel demand to a level 15
9 percent below 2003 level by 2020. And maintain
10 that level for the foreseeable future.

11 The report also offers some realistic
12 recommendations that can help California meet the
13 report's suggested goal. And therefore they are
14 supportive of the report.

15 In addition I have three documents from
16 the National Biodefense Board and Biodiesel
17 Industries, Biodiesel Board and Biodiesel
18 Industries. And those comments have been
19 addressed earlier today. So I will see that these
20 documents are before you.

21 CHAIRMAN KEESE: Thank you.
22 Commissioner Boyd.

23 PRESIDING MEMBER BOYD: Mr. Chairman, as
24 indicated at the beginning of today's discussion,
25 this is a joint report. It's a very positive

1 event for addressing issues like this.

2 But we need to recognize when you merge
3 missions and goals and points of view it makes for
4 an interesting and sometimes lively situation.

5 But I want to commend the staffs of both agencies
6 for the tremendous amount of work and the quality
7 of work that they've done as they've steered this
8 issue through a host of hearings and other
9 discussions with the public.

10 While it was difficult it doesn't seem
11 to be quite like making a budget in California,
12 thank god, so.

13 The genesis has been referenced several
14 times; the price spikes of 99/2000 as the genesis
15 for another one of the multitude of investigations
16 of the industry, whenever there's a price spike,
17 into alleged collusion and price fixing and what-
18 have-you. It led to this Legislation and the
19 request for this report.

20 And, of course, in the middle of the
21 preparation of this report, 2002 and '3 we had
22 another price spike, which people asked for
23 investigations of, which this agency had to do a
24 series of reports on.

25 So it's becoming too much of a fact of

1 life. And I think it's a reflection on the
2 transportation and fuels system that we've evolved
3 to here in California; and that, in turn, is a
4 product of the fact that there are 35 million of
5 us now, and 25 million motor vehicles. When I
6 started my career in government there was about 18
7 million people and far fewer vehicles.

8 So, we have made our situation for us,
9 and we have to address that situation. In the
10 meantime, we've made ourself the world's fifth
11 largest economy. And though we're just a state, I
12 think it is important that we be heard from.

13 Our system, as I said, is taut, it's
14 right. Anytime there's an upset or hiccup, as I
15 like to call them, in the system, in the just-in-
16 time system that is now incapable of supplying its
17 own needs, it goes to the world market. And we
18 live in a world market for the balance of the
19 fuel. But every time there's a hiccup there's
20 some form of supply disruption and there's a
21 resultant price effect. And that's a fact of life
22 and that can't be totally eliminated.

23 But the electorate has asked that we
24 take a good look at this situation. And the
25 staffs of the two agencies have recommended a menu

1 of issues. And people here today have picked
2 different dishes off the menu that meet their
3 preferences. But nonetheless, that menu or
4 portfolio approach affords all decisionmakers
5 everywhere quite an opportunity to address the
6 situation.

7 And the portfolio approach, frankly, is
8 the current way of addressing energy supply issues
9 in all energy areas in California. And it's kind
10 of hard to separate any energy issue from the rest
11 anymore. We have lived through the electricity
12 debacle and we don't want that to happen in
13 transportation fuels.

14 Portfolio approaches are being launched
15 to address those particular needs. Natural gas
16 has followed closely at hand, and it's only
17 appropriate that in transportation fuels we look
18 at the system, we look at the economy. And you
19 take a portfolio approach to the situation; that's
20 exactly what the staff is saying.

21 Furthermore, the Legislature, in its
22 infinite wisdom, and other people have recognized
23 that there's a reservoir of talent at the Energy
24 Commission that certainly precedes me, and they've
25 asked this organization time and time again in the

1 last couple of years to look at issues. And
2 finally the Integrated Energy Policy Report
3 legislation has asked the Commission to take a
4 almost-real-time look at the dynamic energy
5 situation in California, which includes
6 transportation fuels.

7 So, the IEPR, as we choose to call it,
8 affords an opportunity for almost continuous
9 dialogue now on all energy issues, including this
10 one.

11 The Chairman did note that in the past
12 several months we've lost about 100 positions we
13 could fill to address issues here. We're no
14 different than the rest of state government.
15 We're going through tough times now, and we're
16 asked to do more with less. And we will do
17 everything in our power, and I know the staff
18 will, to address issues.

19 But conservation and efficiency have
20 become the watchword of energy policy in this
21 state. And it certainly saved the bacon in the
22 electricity area. And those of you who follow the
23 subject closely, have noticed us calling for
24 conservation in the energy area in order to
25 address our natural gas issues, as well.

1 And has been pointed out several times
2 today, Mr. Greenspan certainly lit a fire under
3 the subject of natural gas in this country. And
4 now there's a rush to judgment on the subject.
5 But California has, as closely as a state can,
6 watched and nurtured that subject area. And it's
7 something we need to deal with in the future.

8 But, again, returning to conservation
9 efficiency and our call for efficiency in the
10 motor vehicle area is what the staff has
11 recommended we pursue.

12 And though we don't control our own
13 destiny there, and it's been pointed out painfully
14 many times that we do not control our destiny, we
15 are just a state, we are the nation-state of
16 California. We are the world's fifth largest
17 economy. And when we put something on the table,
18 and when we get a coalition together of volunteers
19 that I heard in the audience today who want to
20 support that as the primary objective in order to
21 avoid the other, each and every different one
22 onerous possibilities, I think we are capable of
23 putting the subject of vehicle efficiency back on
24 the national table for discussion.

25 And I think it'll get a different kind

1 of a hearing and a more fair hearing this time
2 around because the world of energy has changed a
3 lot. And since our own President has pronounced a
4 goal of getting us some day off of petroleum and
5 on to hydrogen as the fuel of the future, there
6 can be no denying, I would trust, that this is a
7 path that we need to follow; the path towards
8 diversity of energy supply, reducing dependence on
9 any one particular dominant fuel. All the while
10 recognizing that mobility is one of the most
11 important factors in the human existence.

12 And to suggest a sophomoric approach to
13 an analysis that doesn't devote a book, a chapter
14 to that is sophomoric in and of itself, as far as
15 I'm concerned. Because we all recognize that
16 mobility is one of the things that has to be met
17 early on in the human species hierarchy of needs.
18 Food, shelter, et cetera.

19 Just look what's happening in the world.
20 We are looking at it and we're quite concerned
21 about it. I was reading an article on the press
22 this morning about China has joined California in
23 its inability to meet its own needs for petroleum
24 and transportation needs now. And it is in the
25 world market as of now buying fuels.

1 We're all going to be competing with
2 each other. We're all going to stress the living
3 daylights out of our ability. And as one
4 gentleman said, it is really time in this great
5 state of California to resume the desire to be the
6 golden state, not the late great golden state, and
7 be progressive.

8 And I think it's progressive to put this
9 issue on the table and debate it. To debate it
10 continuously.

11 So, I think we've pledged in other
12 forums to remove various barriers to the current
13 need for conventional petroleum fuels. There's
14 been no question in most of our lives that for
15 most of our lives petroleum will be the dominant
16 transportation fuel. And it takes courage and
17 insight to establish targets to drive us towards
18 doing better, as one of the gentlemen said.

19 And as I've already noted once, there
20 are proper and improper roles for government to
21 take. Government stubs its toe quite frequently,
22 I think as does the private sector. And we learn
23 by doing. And we try to move things along.

24 Government prodding in California has
25 brought so many technological developments that I

1 couldn't take the time to run through them now.

2 So California, as a technology-forcing nation-
3 state, needs to continue that view of the
4 activities that it takes.

5 Therefore, on the basis of all the
6 testimony and all the studies and all the dialogue
7 that has taken place over these many years on this
8 subject, the staffs have made a recommendation in
9 the case of this Commission, the appropriate
10 Committee, the Transportation Committee, has heard
11 this all out and has endorsed the staff's
12 approach.

13 And I'm sorry that Commissioner Geesman
14 is not here to participate today, but I speak for
15 the two of us when I say we, as a Committee,
16 strongly recommend to this Commission that we
17 continue to move the ball down the field; that we
18 adopt this report; and that we continue the
19 dialogue on the subject. And that we so tell the
20 Legislature that is our intent through the
21 Integrated Energy Policy Report.

22 And that we invite the Air Resources
23 Board to continue its cooperation and its
24 participation in any dialogue we have on the
25 subject in order to take advantage of this

1 reformed alliance, one that I remember from many
2 years ago that kind of fell apart, that has now
3 come back together. Because the environment and
4 particularly air quality and energy walk hand-in-
5 hand.

6 And as we need to, in the future,
7 continue to address this transportation energy
8 issue.

9 Thank you.

10 CHAIRMAN KEESE: Do I hear a motion?

11 (Laughter.)

12 CHAIRMAN KEESE: Did I hear a motion?

13 PRESIDING MEMBER BOYD: You do hear a
14 motion right now. I move adoption of the staff's
15 report.

16 CHAIRMAN KEESE: Motion, Commissioner
17 Boyd.

18 COMMISSIONER PERNELL: Second, Mr.
19 Chairman.

20 CHAIRMAN KEESE: Second by Commissioner
21 Pernell. Any other comments?

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted four
25 to nothing. Thank you.

1 Thank you, everybody, for your
2 participation.

3 COMMISSIONER PERNELL: Thank you all for
4 coming.

5 CHAIRMAN KEESE: Thank you for the three
6 hours of comprehensive discussion of this issue.
7 And I'm sure Commissioner Geesman regrets missing
8 it.

9 We will take five minutes, please; we
10 will take five minutes and then we have another
11 issue that has some controversy, East Altamont.

12 Thank you. We will start in five
13 minutes.

14 (Whereupon, at 12:30 p.m., the business
15 meeting was adjourned, to reconvene at
16 1:37 p.m., this same day.)

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1 AFTERNOON SESSION

2 1:37 p.m.

3 CHAIRMAN KEESE: Thank you, everyone,
4 for hanging in there. Item 14, East Altamont
5 Energy Center. Consideration of possible approval
6 of the revised Presiding Member's Proposed
7 Decision on the application for certification of
8 East Altamont Energy Center. Mr. Williams.

9 MR. WILLIAMS: Good afternoon, Mr.
10 Chairman and Members of the Commission. I'm Major
11 Williams and I'm the Hearing Officer in the East
12 Altamont Energy Center facility, or EAEC matter.

13 I want to extend my thanks to the
14 Committee Chairman and Commissioner Pernell and
15 their staffs, Scott Tomashefsky, Rick Buckingham
16 and Al Garcia, who I believe are deserving of
17 special thanks for the tireless manner that it has
18 sought to weigh the issues and reach an
19 appropriate result in this siting case.

20 For example, the EAEC Committee issued a
21 PMPD, a revised PMPD, and an errata to the revised
22 PMPD. The Committee conducted several Committee
23 conferences in the City of Tracy, and reviewed
24 several rounds of comments even after the filing
25 of post-hearing briefs. Thus I believe the

1 Committee has very carefully weighed all the
2 evidence and the comments in reaching a final
3 determination as set forth in the errata last
4 month dated June 13th.

5 Accordingly, except for a few minor
6 nonsubstantive changes and typographical errors,
7 as the parties set forth in the latest round of
8 comments, I believe the Committee decision in this
9 matter is fully supported by the record.

10 Mr. Chairman, I can now, if you like,
11 introduce the matter. I have a few prepared
12 remarks.

13 CHAIRMAN KEESE: Go forward.

14 MR. WILLIAMS: Thank you, sir. The
15 EAEC, as proposed, is an 1100 megawatt project in
16 Alameda County. It was evaluated under the dual
17 jurisdiction of the CEC and the Western Area Power
18 Administration, or Western Relief Federal Agency.

19 As proposed, the EAEC will interconnect
20 with Western's transmission system at the Tracy
21 substation. Western is a federal power marketing
22 agency under the United States Department of
23 Energy.

24 More precisely, EAEC is proposed to be
25 located on the far northeastern edge of Alameda

1 County within approximately one mile of the border
2 with Contra Costa and San Joaquin Counties.

3 Rezoning is not required to permit the project.

4 Lane use near the EAEC is primarily
5 agricultural and situated around water supply,
6 natural gas and power generation and transmission
7 facilities of statewide importance.

8 Raw water lines would cross into Contra
9 Costa County to the north. Recycled water lines
10 would cross into San Joaquin County to the
11 southeast.

12 At full capacity EAEC will emit a
13 maximum tons per year of 263.8 nitrogen oxides or
14 NOx, 73.7 of volatile or precursor organic
15 compounds, and 148 of particulate matter less than
16 10 microns in diameter of PM10.

17 The Bay Area Air Quality Management
18 District or BAAQMD is the jurisdictional air
19 district for Alameda County. BAAQMD determined
20 that the EAEC project, through the provision of
21 emission reduction credits or ERCs, and best
22 available control technology or BACT, would
23 appropriately mitigate all air quality impacts in
24 Alameda County.

25 However, EAEC's air quality impacts

1 would directly affect San Joaquin County. And the
2 jurisdictional air agency for San Joaquin County,
3 the San Joaquin Valley Unified Air Pollution
4 Control District, participated throughout these
5 proceedings as an intervenor.

6 Other participating intervenors included
7 Californians for Renewable Energy or CARE, Michael
8 E. Boyd, President; and Mr. Robert Sarvey, a local
9 resident.

10 Other local governmental agencies,
11 without formally intervening, appeared and offered
12 testimony or comments throughout the proceedings
13 in our various topic areas. These included
14 BAAQMD, Byron Bethany Irrigation District or BBID,
15 Contra Costa Water District, Modesto and Turlock
16 Irrigation Districts, Mountain House Community
17 Services District and the Alameda County and Tracy
18 Fire Departments.

19 In addition, local interest in the
20 proposed project was high, as demonstrated by San
21 Joaquin Board of Supervisors resolution 406 in
22 opposition. And in the number of members of the
23 general public who spoke either in favor of or
24 against the project at the Committee's evidentiary
25 hearings.

1 EAEC, as proposed, will be a combined
2 cycle facility comprised of three combustion
3 turbines; three large duct burners; one steam
4 turbine and supporting equipment.

5 In view of evidence that EAEC's air
6 quality impacts will impact San Joaquin County,
7 applicant and the San Joaquin Valley Air Pollution
8 Control District reached an air quality mitigation
9 agreement or AQMA. The AQMA provides the
10 applicant will provide \$1,002,480 to the San
11 Joaquin Valley Air District to insure localized
12 benefits in the northern region, particularly
13 within or near the City of Tracy. That's the
14 northern region of San Joaquin County.

15 The Committee accepted the AQMA by
16 incorporating it within condition air quality SC-
17 5. In addition, the Committee in condition AQSC-5
18 made the CEQA impacts identified in the AQMA as
19 66.8 tons of NOx required mitigation per year
20 through the operational life of the project.

21 Natural gas for the facility will be
22 delivered via approximately 1.8 miles of new 20-
23 inch pipeline from the EAEC project
24 interconnecting in Alameda County to PG&E's main
25 pipeline.

1 Transmission will be provided by new 230
2 kV switchyard and approximately 0.5 miles of new
3 230 kV transmission lines. The switchyard, which
4 will be owned by Western, would function as an
5 extension of Western's Tracy substation, which is
6 located across Mountain House Road immediately
7 west of the project site.

8 Communication between the switchyard and
9 the Tracy substation will be provided by a new
10 approximately eight-inch fiberoptic cable conduit
11 to be installed from the project switchyard across
12 Mountain House Road, which is immediately west of
13 the project.

14 As proposed, EAEC's total annual water
15 demands are projected to be 4616 acrefeet per year
16 on an average annual basis. The water supply is
17 the Byron Bethany Irrigation District. Fresh
18 water for cooling and processed water for the
19 proposed facility would be conveyed by an
20 approximately 2.1-mile long, 24-inch underground
21 pipeline along an existing dirt road from BBID
22 operated canal 45 to the EAEC.

23 Recycled water facilities will be
24 developed in conjunction with BBID and the
25 Mountain House Community Services District. And

1 possibly other recycled water providers.

2 At Mountain House's full development and
3 beyond, projected recycled water availability is
4 in excess of 5000 acrefeet per year, which exceeds
5 EAEC's projected water demands on an average
6 annual basis of 4616 acrefeet per year.

7 BBID would supply the EAEC with recycled
8 water via an approximately 4.6-mile long supply
9 pipeline from Mountain House's treatment facility.
10 The recycled water pipeline from Mountain House's
11 treatment facility to the East Altamont Energy
12 Center shall be constructed prior to the start of
13 plant operation.

14 In combination with the use of recycled
15 water applicant will employ an onsite zero liquid
16 discharge system that will treat and reclaim
17 internal wastewater streams and eliminate the
18 discharge of wastewater from the facility.

19 Domestic potable water will be generated
20 on site from raw water delivered by BBID using a
21 package treatment plant unit.

22 The East Altamont Energy Center project
23 is a proposed merchant power plant estimated to
24 have a capital cost of between \$400- and \$500-
25 million. And an operating life of 30 to 50 years.

1 Over a two-year construction period the project
2 would provide for a peak of approximately 400
3 construction jobs. Approximately 40 skilled
4 positions will be employed on the payroll
5 throughout the expected 30 to 50 year life of the
6 project.

7 Those are my prepared remarks, Mr.
8 Chairman. I would ask at this point if there are
9 any questions.

10 CHAIRMAN KEESE: No, I don't see any
11 questions at this point. Let me just say, as we
12 enter into this, that this has been a reasonably,
13 I guess controversial siting case, judging by the
14 length of it and the numerous hearings we've had,
15 Commissioner Pernell and I.

16 And it presents a new case really to the
17 Commission, unique, where we have a power plant
18 site that is on the far edge of both a county and
19 an air district. And the closest communities
20 reside in another county and another air district.

21 We have grappled with the positions of
22 the applicant, who believe that this project was
23 fully mitigated by the actions of the Bay Area
24 District in which it sits. And by staff and
25 others, who felt that under a CEQA analysis a

1 total independent decision should be made with
2 respect to the impacts on the other District, San
3 Joaquin.

4 As I say, the Committee has grappled
5 with this and come up with a recommendation. We
6 are not suggesting that this should be a
7 precedential decision for all future siting cases.
8 We are suggesting that this is a decision in this
9 case based on all the facts of this case.

10 We are recommending to the Commission
11 that in a broader hearing process they consider
12 the appropriate treatment of facilities located in
13 like situations.

14 As I say, we believe we've given this
15 Commission a recommendation based on the merits of
16 this case, and are not attempting to deal with the
17 larger issue in the long run.

18 With that, you have the recommendations
19 before you. I guess it's appropriate to go to
20 applicant, is that -- or does staff have anything
21 else to add?

22 MS. DeCARLO: I don't have very
23 extensive comments. I'm mainly here to respond to
24 any questions the Commission may have of staff. I
25 do want to state, however, that staff supports the

1 Committee's decision. We believe it represents a
2 reasoned decision that is supported by substantial
3 evidence on the record, and insures that the
4 project will comply with all applicable LORS and
5 will insure that the project mitigates significant
6 adverse impacts.

7 We believe all parties and members of
8 the public have been given a full and fair
9 opportunity to comment, and that the Committee's
10 decision has appropriately taken their comments
11 and concerns into consideration.

12 CHAIRMAN KEESE: Thank you. And,
13 applicant?

14 MR. WHEATLAND: Thank you, Chairman
15 Keese and Commissioners. I'm Gregg Wheatland; I'm
16 the attorney for the applicant.

17 When I went into the Commission's
18 lunchroom today I paused at the jigsaw puzzle
19 table because in some ways that table reminded me
20 of this AFC proceeding.

21 When we began --

22 COMMISSIONER PERNELL: Was that puzzle
23 put together?

24 MR. WHEATLAND: Well, actually --

25 (Laughter.)

1 MR. WHEATLAND: -- when we began this
2 proceeding we began with an AFC process that was
3 much like that table. There were hundreds of
4 scattered pieces of information; hundreds of
5 scattered laws and ordinances that we had to
6 assemble into a coherent picture.

7 And I'm pleased to say that with the
8 Presiding Member's Proposed Decision that puzzle
9 is now almost complete. And, indeed, we now have
10 a coherent picture of the project. One that is
11 largely complete and provides a very accurate
12 picture of what I believe will be a very good
13 project.

14 There are, however, just two pieces of
15 that puzzle that are still missing. And we'd like
16 to ask a few minutes of your time today to talk
17 about those two pieces.

18 First, I'll be asking Mr. Hatfield, who
19 is the Development Manager for Calpine, to briefly
20 set the context of our concerns. Second, I would
21 ask Mr. Rubenstein to address the outstanding air
22 quality issues that we have a concern with.

23 And finally, with respect to soil and
24 water condition 5, we would ask the Commission's
25 assistance in resolving what we believe are some

1 potential ambiguities in that condition. We're
2 not suggesting changes, but we want to be sure
3 that that condition is clearly understood among
4 all of the parties.

5 CHAIRMAN KEESE: I should have
6 mentioned, just because of the nature of this
7 hearing and the fact that we've been together so
8 much, that we do have Seyed Sadredin of the San
9 Joaquin Valley Air Pollution Control District on
10 the phone, and we do have Michael Boyd on the
11 phone, so they're not abandoning us. They will be
12 available later.

13 Just as a question, how long do you
14 think your witnesses will be taking in this for
15 logistical --

16 MR. WHEATLAND: Just a few minutes.

17 CHAIRMAN KEESE: Okay, thank you; that's
18 fine. Good enough.

19 MR. HATFIELD: I think I can do it in
20 less than a minute. I'm Mike Hatfield, I'm
21 Development Manager for the project.

22 I just wanted to provide some context
23 for the two remaining issues that we'd like the
24 Commission to consider. My charge for Calpine is
25 to actually see that this project gets developed

1 and the Commissioners can appreciate that in
2 today's marketplace financing is just a critical
3 element allowing the project to go forward.

4 And I think what we're seeking here is
5 to create certainty, and as Gregg said, we are
6 concerned about what we perceive to be some
7 ambiguity in certain of the conditions.

8 What we're trying to do is to take at
9 face value certain conditions of certification and
10 insure that we can supply the back-to-back
11 agreements either within the public sector or the
12 private sector to insure that we have contracts
13 that can meet those conditions.

14 So, I just wanted to share that with the
15 Commission. If they were wondering why we've been
16 so concerned about some of the details, it has to
17 do with the financing and having spent the last
18 couple of years with Calpine working with a
19 variety of banks to get several other Calpine
20 projects financed. We're looking at it from that
21 perspective.

22 So I just wanted to offer that
23 background.

24 CHAIRMAN KEESE: Thank you, that's a
25 valid point.

1 MR. RUBENSTEIN: Thank you, Chairman
2 Keese, Members of the Commission, my name's Gary
3 Rubenstein; I'm with Sierra Research. We are air
4 quality consultants for the project.

5 I'm here today to urge you once again to
6 take a look specifically at the clarifying changes
7 that we've suggested under alternative A for
8 condition AQSC-5, which is the basic mitigation
9 condition that I think remains at issue. That's
10 an alternative that was included in our July 3rd
11 comments.

12 There are three reasons why I'd urge you
13 again to take a look at that alternative. And I
14 believe those changes are hopefully in the nature
15 of clarification.

16 The first is to provide to the applicant
17 both certainty and clarity as to exactly what's
18 being required in terms of the mitigation
19 conditions. As the Committee's well aware, and
20 the remaining Members of the Commission I assume
21 are well aware, this has been a very controversial
22 project.

23 This has been one of the most
24 controversial areas, and we believe it's critical
25 to have precision and clarity in the mitigation

1 condition so that we can all understand what it is
2 that the Commission wants us to do, and to make
3 sure that we do it correctly.

4 There are two elements to that clarity.
5 First, is that we believe that the changes we've
6 recommended would very clearly endorse the air
7 quality mitigation agreement as the mechanism for
8 mitigating the air quality impacts the Committee's
9 identified within the San Joaquin Valley.

10 We believe, based on everything we've
11 heard, that that is, in fact, the Committee's
12 intent. But we believe it would be extremely
13 helpful for some very clear language that
14 indicates that. And we've proposed some changes
15 to AQSC-5 in our July 3rd comments which we
16 believe would effect that clarification.

17 And then second, we think it's also
18 important to clarify the very important role that
19 the San Joaquin Valley Air District has in
20 implementing and interpreting that mitigation
21 agreement. As you're well aware, the whole reason
22 for this mitigation agreement came about because
23 of the San Joaquin Air District's intervention in
24 this proceeding early on. And a very clear
25 directive that the applicant received from the

1 Committee to work something out with that Air
2 District to make sure that this cross-boundary
3 pollution issue was adequately addressed.

4 We believe that we have successfully
5 done that. Our concern, however, is that this
6 issue still remains sufficiently contentious, and
7 we glean that from the comments the staff has
8 provided on the PMPD and the errata, that there is
9 a potential for differing interpretations of
10 exactly the same mitigation agreement between the
11 staff and the Air District.

12 As someone who spent more than 12 months
13 on this project, attempting to identify a
14 mitigation plan that would satisfy both sets of
15 requirements I think I can say with 100 percent
16 certainty that that is simply not possible in this
17 case.

18 The Air District and the CEC Staff have
19 fundamentally different interpretations. If the
20 Committee is, in fact, endorsing the air quality
21 mitigation agreement as the mechanism for
22 mitigating our air impacts we believe that the
23 interpretation of that agreement should very
24 clearly and squarely be placed on the Air District
25 so that we are not placed in the position we were

1 trying to avoid 18 months ago, which is having to
2 satisfy two completely separate mitigation
3 requirements interpreted in different manners by
4 two different agencies.

5 So, in summary, again I believe that the
6 changes that we proposed under alternative A for
7 AQSC-5 in our July 3rd comments are intended to
8 implement what at least we believe to be the
9 Committee's direction in this matter.

10 If not, then we, too, are confused as to
11 what it is that you would like us to do. But we
12 would hope that we're understanding you correctly.
13 And if so, we would urge you to adopt those
14 clarifications.

15 CHAIRMAN KEESE: Let me just ask staff
16 if staff agrees that there's a difference of
17 interpretation. Do you recognize a difference of
18 interpretation here?

19 MS. DeCARLO: I believe that the
20 Committee had agreed with staff and the other
21 parties that mitigation was necessary for the life
22 of the project. Mitigation has been identified
23 66.8 tons per year --

24 CHAIRMAN KEESE: Is that, life of the
25 project, are those the words that are the problem?

1 MR. RUBENSTEIN: I don't believe I've
2 ever heard or seen those words until the PMPD, or
3 the errata on the PMPD. To the best of my
4 recollection this distinction between the life of
5 the project and the mitigation as exactly laid out
6 in the AQMA was never an issue until after the
7 close of the proceedings, after the close of the
8 hearings.

9 CHAIRMAN KEESE: Is that the divergence?
10 Is that where we're diverging here?

11 MR. RUBENSTEIN: That is the principal
12 divergence, I believe.

13 CHAIRMAN KEESE: Okay.

14 COMMISSIONER PERNELL: Mr. Chairman, let
15 me just -- maybe this is a point of order so I can
16 understand. I thought this project was ready to
17 come before the Commission. And now I'm hearing
18 that there's still some discrepancies; there's two
19 different issues that Mr. Wheatland has talked
20 about.

21 Are we ready to vote on this? Maybe I
22 should be asking the applicant, are we ready here?
23 Are we not? Or where are we at on this? We don't
24 want, as a Commission, to sit here and debate the
25 interpretations. That is supposed to be done in

1 Committee. And we thought we had this, and if we
2 don't, then maybe we need to go to lunch.

3 (Laughter.)

4 COMMISSIONER PERNELL: So, just exactly
5 where are we on this? But I'm not in a position -
6 - I'm a little uncomfortable taking the Committee
7 work and bringing it before the full Commission
8 and trying to debate that. And I don't have the
9 necessary documents in from of me to make a
10 decision on this. So, exactly where are we?

11 CHAIRMAN KEESE: If -- let me try to --
12 let me ask a question. If we're talking, let's
13 use the term 67 tons. If the number if 67 tons
14 and we're imputing that impact to this project in
15 San Joaquin. And San Joaquin is going to take
16 some strategies to obtain that 67 tons for what is
17 the assumed life of the project, which I think we
18 mean 30 years. That's the way it's set up.

19 And we had quite a bit of evidence at
20 the hearing that from all the previous attempts by
21 San Joaquin at mitigation they achieved those at
22 significantly lower costs than are implied in the
23 million dollars and the 67 tons. The actual
24 obtaining of credits by San Joaquin for other
25 parties over the years has been significantly

1 lower than that.

2 It was the Committee's feeling that the
3 action taken under this plan with San Joaquin and
4 the applicant, and a role of the staff that we
5 didn't think was going to totally diverge, would
6 result in perhaps significantly more than 67 tons
7 of offsets that would last for the 30 years.

8 And the Committee is not recommending
9 that we have things that aren't relatively
10 permanent.

11 MR. RUBENSTEIN: If I could --

12 CHAIRMAN KEESE: Now where are we going
13 astray?

14 MR. RUBENSTEIN: The practical
15 implication of the mitigation agreement is that
16 the San Joaquin Air District is going to spend
17 money to retrofit agricultural irrigation pumps
18 and perhaps some trucks. They're going to use a
19 methodology that is consistent with that that's in
20 the air quality mitigation plan to estimate what
21 the emission benefits are of the those retrofits.

22 They will calculate a number. And
23 assuming that we are correct and they are correct
24 and it's greater than 66.8 tons per year, and that
25 that is achieved in a timeframe consistent with

1 AQSC-5, the San Joaquin District would conclude
2 and we would conclude that the mitigation
3 requirement has been satisfied once those
4 reductions have been achieved.

5 There was no anticipation by the
6 applicant or, I believe, by the San Joaquin
7 District, and Mr. Sadredin can speak for himself,
8 that five years from now or ten years from now
9 there would be continuing verification every year
10 that those emission reductions were continuing to
11 be achieved. Those agricultural engines do not
12 have a lifetime of 30 years. They will be
13 replaced again.

14 And to the extent that they're in heavy
15 duty trucks that are retrofit with lower emission
16 engines, those truck engines don't have a 30-year
17 life.

18 And so the question becomes, the
19 fundamental issue is did the Committee intend for
20 us to re-perform mitigation every five or ten or
21 15 years as the changes that we made reach the end
22 of their useful lives.

23 I believe that if the Committee was
24 intending to endorse the air quality mitigation
25 agreement that the answer to that question is no.

1 And that this was a one-time project which would
2 generate long-term benefits, but there would not
3 be this continuing check to see whether the same
4 engines that were retrofit in 2005 are still being
5 in operation in 2015 or 2020. But it would be a
6 finite program.

7 CHAIRMAN KEESE: Is this significantly
8 different than what your obtaining of credits from
9 the Bay Area -- satisfied the Bay Area District?

10 MR. RUBENSTEIN: That's where we get to
11 the disparity between the different agencies. For
12 the Bay Area District we can only provide emission
13 reduction credits. Those credits can only come
14 from stationary sources that are subject to
15 District permit programs. We could not retrofit
16 truck engines, for example, to satisfy the Bay
17 Area District's requirements. And so those
18 credits would be different.

19 The San Joaquin District has made it
20 very clear to us, and I believe they'll make it
21 clear to the Commission today, that those types of
22 credits, those emission reduction credit
23 certificates, they would view as unacceptable as
24 mitigation under the air quality mitigation
25 agreement.

1 And so the answer to your question is,
2 yes, they are different. The types of reductions
3 being achieved under this mitigation agreement
4 with the San Joaquin District are different than
5 the types of reductions that are required
6 typically by air districts for permits within
7 their own jurisdiction.

8 CHAIRMAN KEESE: Okay. Perhaps it would
9 be appropriate to hear -- did you want to
10 interject before I hear from the District?

11 MS. DeCARLO: I can withhold until the
12 District speaks, and then respond --

13 CHAIRMAN KEESE: Okay. Since the issue
14 has been introduced, Mr. Sadredin, are you there,
15 on the phone?

16 MR. SADREDIN: Can you hear me?

17 CHAIRMAN KEESE: Yes, we can now.

18 MR. SADREDIN: Should I just proceed
19 with my statement or do you have a question?

20 CHAIRMAN KEESE: If you have something,
21 I would prefer to hear anything you have to say
22 and then answer the question.

23 MR. SADREDIN: I believe it's possible
24 to resolve this matter by just adding a few
25 clarifying statements in the conditions.

1 But basically the way we see the problem
2 is as follows: Our governing board, which has an
3 11-board member of Board of Supervisors and City
4 Council Members throughout the Valley, they held a
5 public hearing on this matter. And they adopted
6 this air quality mitigation agreement with
7 Calpine, or I meant with East Altamont.

8 And the conclusion in that hearing was
9 that this project would fully mitigate, once
10 implemented would fully mitigate any impact that
11 the plant will have in our District.

12 Now, I think the way the wording is
13 written right now in the errata it would create a
14 lot of confusion, and if taken in the wrong
15 fashion it is perfectly possible to do, especially
16 in light of some comments made by the CEC Staff,
17 it could totally change the meaning and
18 implementation of this air quality agreement in a
19 way that it was not contemplated by the governing
20 board and the public, as that agreement went
21 through the process of approval.

22 I believe the failure to make a
23 distinction between an ERC or emission reduction
24 credit banking system versus a contemporaneous new
25 reduction that we've demanded from this project,

1 as written right now, one could conclude that this
2 project could just simply buy emission reduction
3 certificates from someone and satisfy these
4 requirements forever. Because emission reduction
5 credits, by their nature, they're certified and
6 guaranteed to be per-year reductions forever.

7 And in our view that's not acceptable in
8 this case because what you would be doing in that
9 situation, you simply buy a piece of paper from
10 someone that has already made these reductions in
11 the past. And in the context of the mitigation,
12 contemporaneous mitigation that we've demanded, it
13 will do nothing to improve the air quality from
14 this point forward to mitigate the emissions that
15 come from this project.

16 We do agree that the reductions have to
17 be 66 tons per year. And they have to be
18 permanent. But they have to be permanent in the
19 scope of mitigation process that we've
20 contemplated where we would, for instance, replace
21 ag engines; require the owner to destroy the old
22 engines; and then any new replacement engines that
23 come in would have to comply with those new
24 requirements. Therefore, no need for ongoing
25 verification and administrative work on the part

1 of the District, and also added expenditure on the
2 part of the applicant.

3 So, the basic confusion comes from not
4 making a distinction and trying to make this
5 mitigation agreement look like an ERC transaction,
6 which it isn't. And we think would be detrimental
7 to air quality.

8 CHAIRMAN KEESE: What I'm hearing from
9 you is a suggestion that by requiring destruction
10 of ag pumps and installation of new pumps and a
11 verification that any replacement pumps thereafter
12 would be equally efficient, that that is a life-
13 of-the-project --

14 MR. SADREDIN: That's exactly right.
15 And we think, for instance, if you replace, say
16 it's not a farm engine, and it's a heavy duty
17 engine on a truck, all new trucks from that point
18 on would have to comply with the same requirement
19 that we are basically putting in place with the
20 initial funding of the clean air or duly certified
21 engines.

22 Therefore, --

23 COMMISSIONER PERNELL: And whose
24 responsibility would that be to certify that all
25 new engines meet that requirement?

1 MR. SADREDIN: Well, that's in the law
2 already. You know, you cannot buy a new engine
3 without that engine being certified and meeting
4 the new requirements.

5 COMMISSIONER PERNELL: So basically --

6 MR. SADREDIN: And by destroying the old
7 engines, in the case of a farm, then, you know,
8 basically they have to get new engines and have to
9 meet the new certification requirement by EPA.

10 COMMISSIONER PERNELL: So the assertion
11 that every five or six years they would have to go
12 out and repeat the condition is off-base?

13 MR. SADREDIN: Yeah, that's something
14 you would do in an ERC, a new source review
15 scheme, where we make the sources go through that
16 formality. Because in the context of new source
17 review where you use those ERCs is just a
18 balancing game that we built into the new source
19 review rule, where we don't want a source to get
20 credit for things that are required by law.

21 In other words, if this was an ERC
22 transaction and let's say if you replace a truck
23 engine, we say, well, that truck, you know, in
24 three, four, five years would have been replaced
25 anyway. Therefore you should not get credit for

1 that five years from now because, you know, those
2 people would have had to make those reductions
3 anyway.

4 But in this case, since this is a
5 mitigation project we want to initiate, we want to
6 get these new engines in that otherwise would not
7 be required to be changed. And once they are
8 changed, then all the subsequent projects would
9 have to comply with that. Therefore, the
10 reductions will accord the mitigation would
11 happen. It's just that in the context of an ERC
12 transaction system, if this were to be an ERC
13 certificate, you could not get a certificate for
14 it.

15 But it doesn't change the fact that
16 those emissions have disappeared from the air
17 permanently, and new engines have to comply with
18 the new requirement. So the mitigation would
19 continue; it's just who owns the credits is that
20 question. And that only would be a question if
21 this was an ERC transaction.

22 COMMISSIONER PERNELL: All right, but
23 it's not an ERC transaction, correct?

24 MR. SADREDIN: Right, and we don't want
25 it to be that because that means you just simply

1 get a piece of paper from someone else and say
2 that mitigates this project.

3 COMMISSIONER PERNELL: All right, now
4 would you just walk me through this for a minute.
5 If your District has negotiated mitigation with
6 the applicant, in this case Calpine. And they met
7 that by changing out farm equipment and engines.

8 So once that's done does that satisfy
9 the agreement?

10 MR. SADREDIN: Yes, it would. Taking
11 into account the safeguards that we have in these
12 programs that we are going to use for mitigation.
13 These programs, remember, have been in place for a
14 long time and we have to make sure these
15 reductions are permanent, because we're taking
16 credit for these reductions towards our
17 attainment.

18 And we have to make those showings to
19 the federal EPA and to the State Air Resources
20 Board over time that the reductions that we are
21 claiming from these programs continue to happen.
22 Otherwise, our entire planning process would be in
23 jeopardy.

24 So, in a different context these
25 mitigations under the plan and under the various

1 inventory efforts that we have with the EPA and
2 the state, they would get verified. But it would
3 not be a project-specific, site-specific
4 verification with any liability for Altamont later
5 on to make additional showing or spend additional
6 funds.

7 PRESIDING MEMBER BOYD: Mr. Chairman.

8 CHAIRMAN KEESE: Are you asking
9 specifically --

10 PRESIDING MEMBER BOYD: I want to ask --
11 yeah, I want to ask --

12 CHAIRMAN KEESE: Okay.

13 PRESIDING MEMBER BOYD: -- Seyed a
14 question.

15 CHAIRMAN KEESE: Commissioner Boyd.

16 PRESIDING MEMBER BOYD: Seyed, Jim Boyd.
17 I'm not a member of this Committee, but I want to
18 get something straight in my head. I'm all
19 swamped with air quality stuff.

20 Horrible memories are coming back as a
21 result of this discussion. Basically as I hear
22 it, and this is getting to one of the questions I
23 don't think has been answered, through this
24 agreement and the swap-out of some engines you're,
25 in effect, establishing BACT for this type of

1 equipment for the future. And it would be your
2 responsibility to see that people in the area,
3 when they upgrade years down the road to anybody
4 else, they're going to have engines as efficient
5 as, if not more efficient, than the new engines
6 you're providing in this agreement. Is that a
7 simplistic way of looking at this?

8 Because there was a question of who's
9 responsible to see that things occur in the
10 future, and to me it's kind of a routine
11 responsibility of any local district to, you know,
12 enforce its requirements and decide what's BACT or
13 LAER and to go from there.

14 But you're kind of establishing the
15 floor, is that right?

16 MR. SADREDIN: You're absolutely right.
17 If it weren't for this project these old engines,
18 they could stay in business and run for years to
19 come. In our experience, for instance, with
20 farmers, shows that even though the official life
21 of an engine is, you know, listed as ten years,
22 these people --

23 PRESIDING MEMBER BOYD: No, you don't
24 have to educate me, thank you. That straightens
25 it up for me. I don't want to get in the way of

1 the Committee, but I wanted to understand --

2 CHAIRMAN KEESE: The Committee would
3 like you to get in the way.

4 (Laughter.)

5 PRESIDING MEMBER BOYD: But I do want to
6 hear the staff, too.

7 CHAIRMAN KEESE: Do I, let me try to
8 phrase the issue then. I thought I heard that
9 what the District plans would be acceptable for
10 meeting federal attainment actions that they have
11 to take. And would be acceptable for meeting
12 state goals.

13 And if that's correct, and the Energy
14 Commission Staff is saying but it's not acceptable
15 for meeting what we'd like to see out of this
16 project, is that --

17 MS. DeCARLO: Correct. Unfortunately it
18 does not satisfy the requirements of CEQA in terms
19 of mitigation. The emission reduction calculated
20 by San Joaquin Valley Unified Air Pollution
21 Control District were calculated on an annual
22 basis.

23 The applicant's proposal is to provide
24 mitigation only up until that point where the
25 mitigation sources run out, approximately seven to

1 ten years. After that no mitigation will be
2 provided from the project that's anticipated to
3 run 20-plus years after that.

4 MR. SADREDIN: Mr. Chairman, I think
5 that highlights the misunderstanding that really
6 is at the core of this whole confusion here. I
7 think the issue here is when CEC Staff tries to
8 equate this mitigation to an ERC, a banking
9 process. These mitigations are permanent and they
10 will last forever. It is just that the next time
11 this engine needs replacement, East Altamont would
12 not pay for it, but whoever wants to bring in a
13 new engine has to, at their own cost then, since
14 East Altamont has established a new floor for
15 those engines, as Mr. Boyd just explained.

16 Then any subsequent replacement of those
17 engines would have to be clean and comply with the
18 new requirements which the District or EPA would
19 enforce. Therefore, the reductions and the
20 mitigations would continue to happen. It's just
21 in the ERC scheme, East Altamont would not be
22 entitled to credit for that if they wanted to hold
23 any ERC certificate and sell it to someone else.

24 That by making that initial investment,
25 cleaning up the engines, the reductions would

1 happen and they would happen permanently forever
2 because all replacement engines have to be clean
3 and we require the destruction of the old engines.

4 MS. DeCARLO: I'm sorry, would it be
5 possible to have a five-minute break so staff can
6 confer?

7 CHAIRMAN KEESE: Yes. We'll take a
8 five-minute break.

9 MS. DeCARLO: Thank you.

10 (Brief recess.)

11 CHAIRMAN KEESE: Seyed, are you still
12 there?

13 MR. SADREDIN: Yes, I'm here.

14 CHAIRMAN KEESE: Okay. Well, it was a
15 long five minutes, but we're back. Staff, you
16 asked for a break.

17 MS. DeCARLO: Yes, thank you for
18 accommodating us. My name is Lisa DeCarlo, Staff
19 Counsel. I'm sorry, I failed to introduce myself
20 earlier.

21 I would just like to submit that the
22 Energy Commission has a responsibility to insure
23 that all significant adverse impacts are
24 mitigated. Mere reliance on another agency's
25 program, while a step towards that, doesn't

1 alleviate the Commission of the responsibility
2 ultimately to insure that that mitigation actually
3 occurs.

4 Staff, as well as San Joaquin Valley
5 Unified Air Pollution Control District, has
6 identified 66.8 tons per year of liability,
7 emissions liability for this project.

8 Now applicant's proposal only goes, only
9 reduces that, mitigates for that for seven to ten
10 years. After that there's no mitigation
11 attributable to the project for the 20-plus years
12 that the project will run.

13 The project's purchase of offsets,
14 mitigation, whatever you want to call it, does not
15 raise the baseline for future equipment out there.
16 There are rules already in place that will take
17 care of that. So you can't say at year ten any
18 increase in the efficiency of the various engines
19 out there can be attributed to the project's
20 earlier mitigation.

21 COMMISSIONER PERNELL: Now that differs
22 from what the Air District is saying, so I think
23 that's where the problem lies.

24 MS. DeCARLO: And I just want to say
25 that Matt Layton, our staff air quality analyst,

1 is available to answer any questions that the
2 Commission may have with regard to discrepancies
3 with our position and various other parties.

4 MR. SADREDIN: Mr. Chairman, may I say
5 something?

6 CHAIRMAN KEESE: Yes.

7 MR. SADREDIN: Not only do we disagree
8 with that, but I don't think it matters even if
9 that were true. You know, really what is at issue
10 is what is the impact to the air. What we've said
11 in this case that there will be 66.some tons of
12 emissions that from this project would impact air
13 quality. And we want to remove that much air
14 emissions from the air when this project goes in.

15 What we are saying is that by kick-
16 starting an engine replacement program by the
17 funds that East Altamont would put in place you
18 get those reductions right away instead of waiting
19 10, 15, 20, 30 years when the farmer would have
20 felt maybe it's time to replace the engine.

21 And then from that point on then those
22 emissions will not come back to the air. The air
23 still will be mitigated by 66.some tons. It's
24 just that year 10, 15, somebody else will pay for
25 those replacement engines. But those engines will

1 be as clean or cleaner. So you have mitigated the
2 project.

3 It's just that in an ERC scheme, which
4 the CEC Staff seems to be focused on, East
5 Altamont would not be entitled to a certificate
6 for that. But our concern is not who gets credit
7 for that. Our concern is what is the impact to
8 the air. The air has been mitigated by 66 tons
9 and will continue to be mitigated by so many tons
10 regardless of who pays for the engine replacements
11 in the future.

12 MS. DeCARLO: If I may say really
13 quickly, that the reason they would not be
14 entitled to a certificate for that is because
15 those emissions would not be surplus, those
16 emission reductions would not be surplus because
17 they would have already been required under the
18 law existing at the time.

19 CHAIRMAN KEESE: Although they would be
20 accepted by the federal government and the State
21 of California as permanent reductions in achieving
22 attainment.

23 MR. SADREDIN: Right. And air quality
24 still continues to see that benefit. It doesn't
25 matter who has the title to those benefits. It's

1 just that this project facilitated those
2 reductions and air quality will continue to see
3 those benefits regardless of who pays for it in
4 year 20, year 30.

5 CHAIRMAN KEESE: Okay, let me just --
6 I'm trying to focus on what our difference of
7 opinion is here. And we're talking about a large
8 agricultural -- let's say this is one agricultural
9 entity and they have reduced their tons per year
10 from 100 to 32. They have gone from 100 to 32 and
11 obtained 68 tons.

12 They're never going to go above 32
13 again. And San Joaquin is saying and applicant is
14 saying therefore we've accomplished a 68-ton
15 permanent reduction. Staff is saying, in another
16 ten years those pumps would have gone out anyway.
17 You'd have had to put in new pumps. And current
18 law means you would have had, so you wouldn't have
19 been putting out 100 tons in the future of the
20 natural -- the law would have moved you down and
21 you can't take credit for that.

22 MS. DeCARLO: Correct.

23 CHAIRMAN KEESE: Does that -- how would
24 you analogize that to the dry cleaning
25 establishment? If you take a dry cleaning

1 establishment out of existence, do you assume that
2 the law in ten years would have ratcheted them
3 down enough so you don't get full credit for that?

4 I mean is this a common methodology for
5 anything out there that you're buying as an ERC?
6 That you assume that the law will change, they'll
7 change out equipment and get cleaner?

8 MR. LAYTON: Mr. Chairman, my name's
9 Matthew Layton. There is a difference between
10 stationary sources and mobile sources or engines,
11 because they do have a shorter life.

12 A dry cleaners is assumed to have a 30-
13 year life. At the time, if a dry cleaner goes out
14 of business and wishes to bank its reductions, at
15 the time it has to apply the best available or
16 some control technologies that are appropriate at
17 that time. Even though it has been in business
18 for 40 years, it has to reduce its emissions on
19 paper down to the level that a new one might be
20 at. And then beyond that it can take credit for
21 those reductions. So there's an adjustment at the
22 time of banking.

23 And what we're saying is that these
24 mobiles, they turn over so much more quickly that
25 we're not necessarily getting credit or the

1 benefit towards this project at the time of this
2 turnover. And besides that, what's going to
3 happen at the end of 40 years or 30 years of this
4 project is that the emissions will actually be 67
5 tons higher, because at the end of its life all
6 these engines would have been replaced anyway.

7 So at the end of the life there's not
8 going to be any credits from these engines that
9 are applied towards this project.

10 CHAIRMAN KEESE: There's two different
11 ways of looking at this. In the first analysis
12 they've gone from 100 to 32, there's always going
13 to be a 68 reduction. And that's one way of
14 looking at it.

15 And you're looking at it a different
16 way, saying the current regs would have stepped
17 in. Those farmers wouldn't have been able to keep
18 those pumps operating. They would have bought new
19 pumps, and it would have gone down anyway.

20 So I see the same coin and you're
21 looking at it from two different sides here.

22 COMMISSIONER PERNELL: Just one point on
23 that, that they would have replaced the engines
24 with new engines. And, you know, speaking from
25 just a practical standpoint there's nothing that

1 says that they have to buy a new engine. What if
2 they buy a second-hand engine?

3 MR. SADREDIN: I think that's exactly
4 right, Mr. Chairman. These farmers, what we're
5 saying, because we've been doing this for a number
6 of years, they keep these engines running 20, 30
7 years. And, you know, this whole theoretical
8 lifetime number that we attach to these engines is
9 just a theory. In practice, with the engines that
10 we have in San Joaquin Valley, given the economy
11 and the farming operations profit margins and so
12 forth that they operate at, there would be no
13 guarantee that these farmers would replace these
14 engines ever if it weren't for these funds from
15 East Altamont.

16 PRESIDING MEMBER BOYD: Mr. Chairman,
17 I'd say I would agree with Mr. Layton's analogy if
18 we were talking about cars and trucks and buses
19 and what-have-you, because mobile source offsets
20 have always been difficult in that arena. Mr.
21 Rubenstein can remember those days, I'm sure,
22 because they aren't permanent.

23 But we're talking about ag equipment and
24 ag pump engines, what-have-you, and Seyed answered
25 the question in my mind is what's the lifetime of

1 this kind of stuff. It's a long time.

2 So this is -- I hate to say this, but
3 this is a crap shoot, or this is a decision
4 somebody has to make about a bird in the hand and
5 two in the bush and what-have-you.

6 But I need to ask, could anybody out
7 there, could the project proponent just bought
8 emission reduction credits to satisfy this 67, 68
9 tons?

10 MR. RUBENSTEIN: Mr. Boyd, if I can
11 answer that question?

12 PRESIDING MEMBER BOYD: I said anybody,
13 so you got there first.

14 (Laughter.)

15 MR. RUBENSTEIN: That's why I thought
16 I'd jump in.

17 The answer is depends on who you ask.
18 And that's the fundamental problem that the
19 applicant is facing here today.

20 The staff's position regarding this
21 mitigation is, in my professional experience,
22 fundamentally different than the staff's position
23 on exactly the same issue in any other proceeding.

24 In my experience the staff's position
25 regarding the provision of mitigation is they will

1 use the term permanent, for the life of the
2 project, but they will accept, for example, the
3 use of funds to purchase new school buses. And
4 they will calculate emission reductions from those
5 school buses, see whether they match what they
6 think the project's emissions mitigation
7 requirements are. But they will not require the
8 applicant to come back 10 or 15 years later and
9 buy new school buses.

10 The first time I've ever seen that occur
11 has been in the staff's testimony on this
12 proceeding.

13 Today is also the first day that the
14 staff, to my recollection, has said that 66.8 tons
15 per year of mitigation is acceptable. They've had
16 much higher numbers in all of their previous
17 statements.

18 CHAIRMAN KEESE: That's a movement.

19 MR. RUBENSTEIN: That's right. Having
20 said that, --

21 COMMISSIONER PERNELL: The question is
22 ERCs.

23 MR. RUBENSTEIN: -- the answer to your
24 question, Mr. Boyd, is that if we had to satisfy
25 the Commission Staff we could go out and purchase

1 66.8 tons per year of NOx emission reduction
2 credits, surrender those certificates and to the
3 best of my knowledge the staff would be perfectly
4 satisfied.

5 The District would give us a zero credit
6 for that and say that was completely unacceptable.

7 On the other hand, if we go ahead and
8 participate in this mitigation agreement with the
9 District and they succeed in reducing emissions
10 from ag engines that reduce emissions by 66.8 tons
11 per year, and don't surrender a single
12 certificate, the Air District will say they're
13 satisfied, we're done. And the staff will say
14 that's unacceptable or that's a start.

15 I think, Mr. Boyd, you're right.
16 Someone's going to have to make a decision here.
17 As far as the applicant's concerned pretty much
18 we're indifferent as to which approach is taken.
19 After 12 months of trying to mediate this between
20 the different agencies, I had to pick one and I
21 thought I got -- and the applicant thought we got
22 very clear direction from the Committee to work
23 with the Air District, and we did.

24 Based on that, we think it would be
25 inappropriate to suddenly abrogate that agreement

1 and go back to simply buying and surrendering
2 emission reduction credits, even though that would
3 satisfy the staff, because that's not consistent
4 with the Committee's direction earlier; and it's
5 not consistent with what we think the community
6 would want in terms of real local emission
7 reductions on the ground, as opposed to
8 surrendering paper certificates.

9 And it's certainly going to create a lot
10 of problems for the applicant with the Air
11 District because we've already signed this
12 agreement.

13 PRESIDING MEMBER BOYD: The Air District
14 Board, which is responsible to the people, has
15 embraced an approach, and I believe it's the
16 approach that Seyed described, that they'd rather
17 have the bird in the hand than wait for the birds
18 in the bush, so to speak.

19 And I'm sympathetic to that, having been
20 in this business for 25 years and knowing how hard
21 it is to deal with the farm community. And
22 recognizing that, to get some credits today and a
23 permanent destruction of old engines, is a risk
24 they'd like to take. They're willing to take the
25 risk vis-a-vis the off-chance that the engines

1 will wear out sooner than 20 or 30 years and maybe
2 you could mandate their replacement.

3 It's a policy call.

4 CHAIRMAN KEESE: Staff, was that a fair
5 characterization of an advocate for a position
6 that you heard?

7 MS. DeCARLO: I would just say that the
8 Committee's decision does not require the
9 abrogation of the AQMA with the Air District. It
10 is perfectly in --

11 CHAIRMAN KEESE: But staff would be
12 satisfied with 67 tons of ERCs?

13 MS. DeCARLO: Right, we're not going to
14 prescribe how they get those reductions. We just
15 want to see the 66.7 tons per year, which is fully
16 supported by the record, as what's required, is
17 what the liability of the project is.

18 And that's what the Commission decision,
19 it just requires that the applicant show that they
20 have provided 66.7 tons per year in emission
21 reductions.

22 CHAIRMAN KEESE: In ERCs? I mean --

23 MS. DeCARLO: Either.

24 CHAIRMAN KEESE: -- which they could
25 get, but --

1 MS. DeCARLO: They could do either ERCs
2 or they could get the contemporaneous
3 reductions --

4 CHAIRMAN KEESE: Which puts us right in,
5 so we've now focused on the issue. And as I
6 recall the PMPD, as revised revised, we put the
7 option out there to go really either way.

8 The District wants 67 new tons out.
9 Staff says you can pay for 67 tons of what was
10 done last year.

11 MS. DeCARLO: Or you can do both. It's
12 not an either/or.

13 CHAIRMAN KEESE: You could do half and
14 half, or you could do whatever, but --

15 MS. DeCARLO: As long as there's 66.7
16 tons per year.

17 CHAIRMAN KEESE: -- but as we've heard
18 characterized here, what is satisfactory to the
19 staff is not satisfactory to the District, and
20 what's satisfactory to the District is not
21 satisfactory to staff.

22 MS. DeCARLO: I don't believe the
23 District would oppose full compliance with the
24 AQMA and then anything in addition to that.

25 MR. SADREDIN: Mr. Chairman, that's, I

1 don't want to say disingenuous, but it doesn't
2 really point out to what it would force the
3 applicant to do.

4 If you go with the CEC Staff
5 recommendation what it forces the applicant to do
6 is simply buy ERCs. What they can do then is go
7 buy a piece of paper for reductions that were made
8 ten years ago, 15 years ago or just yesterday.
9 That would fully satisfy CEC's concerns.

10 But it would provide no mitigation next
11 year for this project when it's built. We want
12 new projects -- of course, if you want to say
13 well, do the full mitigation as the District wants
14 it, and on top of that go buy a piece of paper of
15 ERC certificates, fine, I guess we could say, you
16 know, that's okay with us.

17 But that, I think, if I could take the
18 liberty of making this comment, that wouldn't be
19 the public policy, and it would limit the source's
20 ability to do that. Maybe that will kill the
21 project, I don't know.

22 CHAIRMAN KEESE: Thank you. I --

23 MS. DeCARLO: With all due respect, I
24 just can't believe that the Air District would
25 oppose ERCs, or would claim that ERCs don't offer

1 sufficient mitigation for a project considering
2 that most of their regulations for new source --

3 MR. SADREDIN: We absolutely -- that is
4 our absolute position that ERCs by way of
5 mitigation for a CEQA-type mitigation, for
6 mitigating new increases in emissions, it provides
7 nothing to mitigate those emissions. That's
8 obvious. You're buying a piece of paper for
9 reductions that were made ten years ago. How does
10 that mitigate our emissions or improve air quality
11 five days from now, or a year from now?

12 That is only a game we play in the NSR
13 context, because you have that balancing game
14 within the NSR program where you add increases and
15 decreases and show some kind of a balance there.
16 It's not intended for mitigation.

17 CHAIRMAN KEESE: Thank you.

18 MR. WILLIAMS: Mr. Chairman.

19 CHAIRMAN KEESE: Mr. Williams.

20 MR. WILLIAMS: I think we're getting
21 pretty far afield from the language that's
22 contained in the errata and the revised PMPD. So
23 I think in order to sort of level the playing
24 field here and get everybody focused back on what
25 the language says, I ought to read it. Because

1 we're getting into some theory that's really not
2 supported by what the condition states.

3 So, let me just read it. It says: In
4 order to enhance air quality in the northern San
5 Joaquin Valley air basin in general, and near the
6 project in particular, the project owner shall
7 fund a program designed to achieve reduction in
8 emissions of ozone and PM10 precursors."

9 "The project owner shall provide
10 emissions" -- this is a new paragraph -- "The
11 project owner shall provide emissions reductions
12 locally equivalent to 66.8 tons of NOx yearly for
13 the life of the project."

14 It says: These emission reductions may
15 be generated through a combination of mobile
16 and/or stationary source emission reduction
17 programs with best efforts made to achieve the
18 reductions in the northern San Joaquin Valley."

19 "Emission reductions will be obtained
20 through 1) implementation of measures identified
21 in the air quality mitigation plan as identified
22 in paragraph 3 of the AQMA between applicant and
23 the San Joaquin Air Pollution Control District."

24 "Pursuant to paragraphs 5 and 12 of the
25 AQMA, the AQMA is incorporated within this

1 condition and shall be enforceable against any
2 EAEC successor project owners."

3 So, the Committee has clearly
4 incorporated the AQMA, and has not sought to
5 abrogate the AQMA in any fashion. Of course, it
6 does go on to say that providing supplemental
7 funds to the Air District to implement additional
8 measures identified in the air quality mitigation
9 plan as may be necessary to achieve the emissions
10 reductions identified.

11 And it also says applicant may opt to
12 provide ERCs in lieu of additional funding beyond
13 the \$1,002,480.

14 So in no way does the condition abrogate
15 the agreement. The condition simply goes beyond
16 the agreement in an attempt to bring mitigation
17 appropriate under CEQA.

18 PRESIDING MEMBER BOYD: Mr. Chairman,
19 may I ask Mr. Williams a question?

20 I heard you say, in reading that back to
21 us, yearly for the life of the project? I heard
22 you say that. I wrote it down. Is that what you
23 said, yearly, for the life of the project?

24 MR. WILLIAMS: I've got somebody
25 whispering in my ear, if I could just have a

1 second?

2 (Pause.)

3 MR. WILLIAMS: Okay, I just want to make
4 a slight correction here. I read from my notes,
5 yearly, for the life of the project. The errata
6 says, the actual language in the errata is:
7 through the economic life of the project."

8 So with that, I just wanted to clarify
9 that, Commissioner.

10 PRESIDING MEMBER BOYD: Well, that's a
11 big clarification. I mean you'd won me back to
12 the other side of the argument with yearly, for
13 the life of the project. I'd turn to Mr.
14 Rubenstein and say, how do you respond to that.

15 But now that isn't the official
16 language. So, I will defer --

17 MR. WILLIAMS: Yearly, for the --

18 PRESIDING MEMBER BOYD: -- to the
19 Committee a little bit while we all debate it. It
20 doesn't say yearly, for the life of the project.
21 And that's what everybody meant until you blew it
22 with the language that's there. I think. But I'm
23 not the lawyer here.

24 CHAIRMAN KEESE: Major, one moment. Mr.
25 Sarvey, I notice your acute interest in getting to

1 the microphone.

2 (Laughter.)

3 CHAIRMAN KEESE: I am going to note that
4 you're no longer a party to this proceeding. This
5 is a Commission meeting. With that said, we're
6 going to allow you to make a comment on this issue
7 at this time.

8 In other words, we're out of that
9 Committee process where you were an intervenor.

10 MR. SARVEY: Thank you, Mr. Chairman.

11 CHAIRMAN KEESE: We're in an open forum
12 here at the Commission.

13 MR. SARVEY: I pointed this out to the
14 Committee earlier in the RPMPD conference, and
15 article 5 of the AQMA between the applicant and
16 the Pollution Control District states: The
17 Pollution Control District must defend this
18 agreement even in defense against CEC."

19 So this is not an independent assessment
20 that you're receiving from Seyed here.

21 I also attended the meeting where the
22 governing board had approved this. And I
23 questioned why the governing board would approve
24 this in light of the same day the FSA came out
25 with the CEQA analysis that should have been used

1 as the basis of this mitigation.

2 And Seyed assured the governing board
3 that they had done a complete analysis on this.
4 Later on in the hearings, the San Joaquin Valley
5 Air Pollution Control District representative, it
6 wasn't Seyed, admitted they had not done an
7 analysis on this project. They accepted the
8 applicant's verification of what their analysis
9 was.

10 So, what we're dealing with here is not
11 an analysis that's been performed by the Pollution
12 Control District, it's something that was done by
13 the applicant. I pointed this out at the last
14 hearing that we had. And I think that the
15 comments by the Pollution Control District should
16 be given that weight.

17 Thank you.

18 CHAIRMAN KEESE: Let me ask a question.
19 On this, Bob Sarvey, the Pollution Control
20 District is saying they'd like 67 tons now. And
21 versus 67 tons now or 67 tons of ERCs. Do you
22 have a position?

23 MR. SARVEY: My position is that if we
24 are going to only receive 67 tons, that it should
25 be in the form of a program that the applicant is

1 describing here. I don't think emission reduction
2 credits will achieve what the Pollution Control
3 District is describing.

4 But I also want to point out that
5 although staff may be saying at this point that
6 they will accept 67.7 tons, their analysis that's
7 the basis of the record, is 133 tons of NOx, 43
8 tons of VOCs, 50 tons of PM10. And this is the
9 CEQA analysis on this project.

10 Somehow we got sidetracked into the 66
11 tons. That has nothing to do with what the record
12 states and what's in the record.

13 CHAIRMAN KEESE: Thank you.

14 (Pause.)

15 MR. RUBENSTEIN: Mr. Chairman, if I
16 could just close briefly on this issue --

17 CHAIRMAN KEESE: Yes.

18 MR. RUBENSTEIN: -- and then I promise
19 I'll sit down.

20 CHAIRMAN KEESE: On this issue?

21 MR. RUBENSTEIN: On this issue.

22 CHAIRMAN KEESE: Okay.

23 MR. RUBENSTEIN: And then I'll sit down.

24 Mr. Williams is correct that the language, as
25 prepared by the Committee, does not allow us to

1 substitute emission reduction credits for this
2 mitigation program.

3 The fundamental concern that we have is
4 because of the different interpretations between
5 the agencies that the applicant will be in a
6 position of first providing the mitigation funds
7 and getting the 66.8 tons through the District's
8 program, and then additionally having to go out
9 and buy 66.8 tons of emission reduction credits to
10 satisfy the staff's concerns for permanency.

11 Because, otherwise, as a practical
12 matter, there is no way to demonstrate that we'll
13 be able to get 66.8 tons of NOx reductions 10 or
14 15 years from now in the future. There's no way
15 we'll be able to make that demonstration with any
16 certainty.

17 For that reason we again come back to
18 the changes that we had proposed in alternative A
19 in our July 3rd comments. I think that is
20 consistent with the Committee's intent. I think
21 that will clarify the issue that what we're
22 looking at is the mitigation agreement, as defined
23 and interpreted by the Air District. And that
24 will get the 66.8 tons that the Committee is
25 looking for.

1 Thank you.

2 CHAIRMAN KEESE: Thank you. We're going
3 to hear another issue and then we'll come to
4 public comments.

5 MS. SARVEY: So can I make a public
6 comment specifically about the ERCs? It's very
7 short.

8 CHAIRMAN KEESE: All right, Mrs. Sarvey,
9 we will allow you to make a comment here.

10 MS. SARVEY: Hi, I'm Susan Sarvey. I
11 represent Clean Air for Citizens and Legal
12 Equality. The reason we have emission reduction
13 credits in any form is because we have somebody
14 who is polluting our air when we have bad air to
15 begin with. And we would like them to do
16 something in order to make the air cleaner.

17 The problem we're having here is that
18 they are going to pollute every year that they're
19 in service. As a community member, I am
20 supportive of the farm plan; where I'm not
21 supportive is the Air Board implemented making
22 clean vehicles because we need to clean the air,
23 as individuals and as corporations and companies.

24 So when you buy a new truck, as an
25 individual you will be forced to clean the air one

1 way or the other. They are trying to offset their
2 emissions that they are making every single year.
3 They should be able to buy farm equipment retrofit
4 this year. When that farm equipment is no longer
5 used because they buy a new truck, the farmer is
6 not responsible for paying for a clean air truck
7 to reduce his NOx. He's doing it as a farmer
8 cleaning the air.

9 At that point they should be required to
10 go out and retrofit another dirty pump. I don't
11 really understand what the argument is about.
12 Every year they're in operation they are
13 polluting. If they do this one time and they
14 never do anything again, they're putting a drop of
15 water in a bucket that they are filling.

16 So they need to not necessarily spend \$1
17 million every year. They spend a million dollars
18 this year, they retrofit all this farm equipment.
19 As it comes offline they will have to replace it.
20 They'll be making money that year if they're in
21 business. There should be no problem there.

22 If they go out of business they not
23 longer need the NOx credit, they don't have to buy
24 new equipment. It's as easy as that.

25 You cannot rely on the Pollution Control

1 District because they are legally bound to remain
2 silent by a memorandum of understanding they
3 signed before we went into the hearings.

4 You need to protect my air, the
5 community's air and your own air. In order for us
6 to all have clean air, we have to play fair. It's
7 not our fault that they make emissions every year
8 and that every year they need to make a reduction.
9 And if that requires that the Pollution Control
10 District or you or them keep track of how long
11 that pump is running, then that needs to happen.
12 It's not that hard.

13 Thank you.

14 CHAIRMAN KEESE: Thank you. I believe
15 you had another issue that you wanted to take up?

16 MR. WHEATLAND: Yes, thank you very
17 much. The final piece of our jigsaw puzzle has to
18 do with soils and water condition 5. And here
19 we're not proposing changes to the language, but
20 we would ask the Commission to help resolve what
21 we think are several potential ambiguities.

22 And to that I would like Mr. Helm to
23 address the topic.

24 CHAIRMAN KEESE: Can you give me a
25 reference? Do I have a piece of paper in front of

1 me that I should look at?

2 MR. WHEATLAND: Well, the condition that
3 we are talking about is soil and water condition 5
4 as proposed in the errata to the revised RPMPD.
5 And we have addressed these ambiguities in our
6 comments on the errata which we filed on July 3rd,
7 and in our reply comments on July 10th.

8 CHAIRMAN KEESE: So, what page, please?
9 I'll share it with my other Commissioners.

10 MR. WHEATLAND: If you were to look at
11 our comments on July 3rd, our comments on the
12 water area begin at page 13.

13 CHAIRMAN KEESE: Page 13. All right,
14 would you explain the issue to us?

15 MR. HELM: Mr. Chairman, Members of the
16 Commission, my name is Kris Helm; I'm a water
17 resources consultant with the East Altamont Energy
18 Center. I appreciate the opportunity to appear
19 before you today and am tremendously respectful of
20 the work that the Committee did in considering
21 these issues up till now.

22 The errata to the Revised Presiding
23 Member's Proposed Decision contains a revision to
24 soils and water condition 5. And we are not
25 proposing to change the condition, we want to

1 address potential ambiguities that exist within
2 the language just to avoid any misunderstandings
3 with the staff during the post-certification
4 process.

5 Perhaps the most important point of
6 clarification concerns the requirement that,
7 quote, "Prior to using inland water the project
8 owner shall accept for use all the recycled water
9 available to convey to the project at a cost
10 comparable to or lower than the cost of fresh
11 water conveyed to the project."

12 It's our understanding that in comparing
13 the cost of recycled water to fresh water the
14 costs will be compared on an equivalent basis.
15 That is, East Altamont will take delivery of raw
16 water, fresh water at our site.

17 And the charges that we will pay for
18 that are outlined in our memorandum of
19 understanding with BBID. We will pay for the
20 capital facilities, the operation of those
21 facilities, fixed operating costs, a contribution
22 to fixed costs of BBID.

23 We will pay in our water rates, if you
24 will, for all the costs of delivering the water to
25 our site. Here in California water is free. You

1 pay for the facilities and the resources necessary
2 to get the water to you.

3 We want to be clear that when we compare
4 the cost of recycled water to the cost of fresh
5 water we are comparing those costs for water
6 delivered to our site, not the alternative where
7 this is a cost of water and on top of that you pay
8 for the facilities, the energy, the operation and
9 maintenance, replacements and all those things
10 through other charges.

11 We just want to be clear --

12 CHAIRMAN KEESE: Okay, let's see if we
13 have a disagreement here with staff on this one.

14 MS. DeCARLO: The problem is we haven't
15 fully discussed in hearings or elsewhere how this
16 accountability would actually take place; how
17 they're going to account for the charges.

18 The simplest way to go about comparing
19 costs is what is BBID charging East Altamont for
20 the water, for the raw water. What is Mountain
21 House, or if it's BBID, BBID charging for the
22 recycled water.

23 When you start talking about various --

24 CHAIRMAN KEESE: Well, there's an
25 economic -- we have laid it open here and left

1 completely open the economic decision as to who
2 pays for the facilities and the pipe. We have
3 suggested that there has to be a pipe that hits
4 the facility.

5 We have left open the economic decision
6 as to whether that's owned by BBID; whether it's
7 owned by Mountain House, or whether it's owned by
8 East Altamont.

9 So we expect a transaction to take place
10 here. So, it seems to me it would be appropriate
11 to embed in the cost of the water the cost of the
12 infrastructure. That just seems like a natural.

13 If applicant pays for the line to bring
14 in the fresh water, that would be taken into
15 consideration, also. If they pay for -- I know
16 they're paying for the facility to make it
17 potable. So that is not a subtraction, but I
18 would -- that would be my interpretation. And I
19 think that was our thought process as we decided
20 to leave open the economics of what entity paid
21 and owned the infrastructure.

22 We attempted not to make a decision
23 here. Somebody's got to put it in. Is that --

24 MS. DeCARLO: Right, and staff does
25 not --

1 CHAIRMAN KEESE: I mean I think --

2 MS. DeCARLO: -- object to the
3 comparison on a comparability of services ground.
4 We're just concerned about how those costs are
5 actually calculated. And perhaps that's something
6 we could just discuss in the compliance phase, as
7 to whether or not --

8 CHAIRMAN KEESE: Okay, I think we've
9 made our -- that --

10 MR. HELM: Thank you. I think we have a
11 common understanding on that point.

12 CHAIRMAN KEESE: -- that was the
13 Committee's -- that was implicit --

14 MR. HELM: Thank you.

15 CHAIRMAN KEESE: -- in the Committee's
16 decision to leave the economic questions of who
17 owned the infrastructure an open question for you
18 to negotiate if and when we get an agreement here.

19 MR. HELM: Okay, and that's the issue
20 that we appeared to have a potential disagreement
21 with the staff.

22 I'll run quickly through some issues
23 that we brought up in our July 3rd comments that
24 we don't believe we have a disagreement with the
25 staff.

1 The --

2 CHAIRMAN KEESE: Are they taken care of
3 in our errata yet?

4 MR. WHEATLAND: No, these are issues
5 that arose in the errata that we didn't -- we just
6 want to confirm that we don't have a disagreement
7 with the staff on these issues.

8 CHAIRMAN KEESE: You want to confirm
9 that with the staff?

10 MR. WHEATLAND: If we could do it on the
11 record we'd appreciate it. It will be very brief.

12 CHAIRMAN KEESE: Sure.

13 MR. HELM: So the RPMPD says prior to
14 plant operation a pipeline capable of conveying
15 5900 gallons a minute of recycled water from
16 Mountain House facilities to EAEC shall be built.

17 And we understand that this pipeline
18 will be designed in the same manner as all other
19 project facilities. It will be based on detailed
20 engineering plans by registered engineer employed
21 by the entity responsible for the construction and
22 operation of the pipeline.

23 The Commission intention is that the
24 actual diameter of the pipeline is sufficient to
25 convey 5900 gpm. And that's the purpose of this.

1 We don't think we have a disagreement?

2 MS. DeCARLO: No; 5900 is what's in the
3 condition, that's what we estimate or we
4 anticipated being based on.

5 MR. HELM: Okay. And then we've also
6 just suggested a clarification to the language
7 which is probably under the category of a typo.
8 Our clarifying language is to clarify language
9 that presently reads: Not later than 60 days
10 prior to the start of plant operation project
11 owner shall submit to the CPM any contract entered
12 into detailing the rates and conditions for
13 recycled water service established pursuant to
14 Water Code section 13580.7."

15 Now, 13580.7 establishes procedures for
16 requesting recycled water service, but it is not
17 the statute that governs the ratemaking and the
18 procedures for setting the rates.

19 So we just wanted to change that to be
20 perfectly clear that not later than 60 days prior
21 to start of plant operation project owner shall
22 submit to the CPM a contract, if any, detailing
23 the rate and conditions for recycled water service
24 that has been entered into pursuant to Water Code
25 section 13580.7. And we don't think that we have

1 a disagreement on that, either.

2 MS. DeCARLO: Are you requesting a
3 change to the actual wording of the condition,
4 because that's not what was included in your
5 comments.

6 MR. WHEATLAND: Well, the clarification
7 is just that that Water Code section applies to
8 the procedures for entering into the contract.

9 MS. DeCARLO: With the acknowledgement
10 that 13580.7 and subsequent sections to that water
11 recycling act of 1991 does provide for the basis
12 of establishing reasonable rates for recycled
13 water.

14 MR. WHEATLAND: Then I think we're in
15 concurrence, thank you very much.

16 And, Kris, I think then you have
17 footnote.

18 MR. HELM: Oh, I'm sorry. Then footnote
19 112 on a table needs to be changed. That was even
20 in Major's comments. He mentioned the 5000
21 acrefeet of recycled water might be available for
22 East Altamont. That is not consistent. The table
23 shows that the Committee did intend to allow
24 Mountain House Community the opportunity to re-use
25 effluent within the Community. And so some lesser

1 amount would be available.

2 And we tried to correct that with a
3 footnote. The footnote presently says that
4 Mountain House would use the water above East
5 Altamont's needs. That wasn't the intent at all.
6 East Altamont would use the water above Mountain
7 House's needs. And that was the basis of that
8 estimate.

9 That's the extent of my comments.
10 Again, we believe that was a typo.

11 CHAIRMAN KEESE: Are you asking for
12 something on that one?

13 MR. HELM: No, we're just pointing out
14 that that's a typo that we ask to be corrected.

15 CHAIRMAN KEESE: Okay. Major, is that -
16 - you got that one?

17 MR. WILLIAMS: Yes. As I mentioned,
18 there were several typos that we needed to fix,
19 and we --

20 CHAIRMAN KEESE: Okay.

21 MR. WILLIAMS: -- had planned to do
22 that.

23 CHAIRMAN KEESE: Thank you.

24 MR. WILLIAMS: If we were returning to
25 the --

1 CHAIRMAN KEESE: No, we're not
2 returning.

3 MR. WILLIAMS: Oh, okay.

4 CHAIRMAN KEESE: We got a little bit
5 more to do here because I have Mr. Gabe Karam of
6 the Mountain House CSD and Steve Herum of Trimark,
7 who, I would gather, probably didn't need to
8 comment. But if either one wanted to comment at
9 this time?

10 MR. KARAM: Mr. Chairman, Members of the
11 Commission, my name is Gabe Karam; I'm with the
12 Mountain House CSD.

13 I just want to clarify when your staff
14 first made the presentation there were some
15 mentioning that the waste treatment plant and the
16 recycled water, the treated water coming out of
17 the plant would be, I thought he may have said it
18 will be transported by BBID.

19 The plant and the water is ours. It
20 does not belong to BBID. And this is an issue
21 that will be resolved later on between us and
22 them.

23 I just want to clarify because he stated
24 it in the record, I want to clarify that it's
25 not --

1 CHAIRMAN KEESE: We understand that this
2 is going to be negotiated afterwards.

3 MR. KARAM: Thank you so much for
4 listening. And we do support the staff
5 recommendations, as stated in the errata. Thanks.

6 CHAIRMAN KEESE: Thank you. All right,
7 then we still -- we have Mr. Boyd on the phone.
8 Mrs. Sarvey, did you have any other comments to
9 make at this time? Ms. Ms. Sarvey.

10 MS. SARVEY: Are you talking about
11 water?

12 CHAIRMAN KEESE: You're now talking
13 about -- we have the whole thing in front of us,
14 so this is your chance to speak to the whole
15 project.

16 MS. SARVEY: Hi, I'm Susan Sarvey,
17 CACLE. I am still confused as to why any of us
18 are discussing anything in the decision referring
19 to BBID.

20 Because it was established in the last
21 hearing that we had that Mountain House owned
22 their water; BBID had to already be in the
23 business of transferring recycled water, which
24 they are not. They're basing their whole argument
25 that somewhere down the road they may be selling

1 recycled water. They don't have any now. They
2 may in the future.

3 You need to cut your deal with Mountain
4 House, because Mountain House has people living in
5 it now; they're flushing their toilets; they have
6 your water. You need to make a deal with Mountain
7 House. BBID is not part of this negotiation.

8 Thank you.

9 CHAIRMAN KEESE: Thank you. Mr. Boyd,
10 on the phone. Another Boyd, Michael.

11 MR. BOYD: Can you hear me?

12 CHAIRMAN KEESE: Yes, we can.

13 MR. BOYD: Okay. My comments are
14 basically as follows: The Energy Commission's
15 expert staff assigned to the project has
16 determined that the project impacts on the San
17 Joaquin Valley will require an additional
18 mitigation of 175 tons per year of ozone
19 precursors, 50 tons per year of PM10 mitigation.

20 The record shows no evidence that any
21 party, including the Committee, applicant, or
22 either Air District performed any CEQA analysis on
23 this project, which is a discretionary project of
24 that Air District under CEQA. And that's
25 necessary for the Commission's approval of the

1 project.

2 The only CEQA analysis that we're aware
3 of was performed by the Energy Commission Staff,
4 itself. And they're the ones requesting this
5 additional mitigation.

6 Additionally, I provided the Commission
7 a list of 57 violations at Calpine's Los Medanos
8 Energy Center and Delta Energy Center, notices of
9 violation for the Bay Area Air Quality Management
10 District. And it's come to our attention that
11 they don't have a schedule of compliance to bring
12 their facilities into compliance.

13 It is my understanding that in order for
14 this Commission to certify this project that they
15 have to either provide evidence that all their
16 facilities are in compliance or have a schedule
17 for compliance in order for you to do so.

18 In the absence of that in the record I
19 question the legality of your certifying this
20 project at this time.

21 And in light of all the ambiguity and
22 disagreements among your own staff and the
23 applicant and the districts, I think it would be
24 prudent at this time to delay your final decision
25 or deny the project.

1 And that's all I have to say, thank you.

2 CHAIRMAN KEESE: Thank you.

3 MS. DeCARLO: I could provide some
4 information to the Commission on that matter if
5 the Commission would like.

6 CHAIRMAN KEESE: We'd be happy to hear.

7 MS. DeCARLO: Staff spoke with the Bay
8 Area Air Quality Management District this morning
9 regarding the NOV issue. Their position now is
10 that neither Los Medanos nor Delta are -- let me
11 phrase this affirmatively -- both projects are
12 currently in compliance. There are no outstanding
13 notices of violation for either of those projects.

14 CHAIRMAN KEESE: Thank you.

15 MR. BOYD: Well, that's different from
16 the information that they gave us in response to
17 our records request. They said that those
18 violations were the subject of a law enforcement
19 investigation. And I provided a copy to all the
20 Commissioners and the staff.

21 So, is there a person here from the Air
22 District that can corroborate that statement by
23 staff?

24 MS. DeCARLO: We had the Bay Area
25 available earlier today, however unfortunately,

1 according to their schedules, they're not
2 available at this moment.

3 However, they did mention that the
4 pending disposition language, which I think Mr.
5 Boyd is referring to, actually refers to working
6 out the actual penalty for those notices of
7 violation. It does not mean that those notices of
8 violation are outstanding still.

9 MR. BOYD: Oh, so you're saying that the
10 only reason they wouldn't give us that information
11 was because they were determining how much the
12 fine would be? Or what the enforcement action
13 would be?

14 CHAIRMAN KEESE: Mr. Boyd, I'm not sure
15 she can make an assumption.

16 MR. BOYD: It's hearsay. What I'm
17 saying is it's hearsay without having a witness
18 from the District there. Basically what she's
19 raising is hearsay.

20 I have written information from the
21 District that's contrary to that. And in the
22 absence of written information, written evidence
23 or a witness, I don't -- you know, you ignore what
24 I'm saying at your own risk, that's all I can say.

25 CHAIRMAN KEESE: Thank you. Mr.

1 Rubenstein.

2 MR. RUBENSTEIN: Chairman Keese, this
3 issue was only brought to my attention this
4 morning; and so I've only been able to do a
5 limited amount of research on it.

6 I can't verify the number of notices of
7 violation that were issued to Los Medanos or
8 Delta. They were, to the best of my knowledge,
9 all violation notices associated with startup
10 emissions and an issue that has been addressed by
11 permit applications for both plants that were
12 filed with the Bay Area District earlier this
13 year.

14 To the best of my knowledge, my
15 information is consistent with what Ms. DeCarlo
16 reported, which is that both facilities are in
17 compliance with all of their applicable
18 requirements.

19 Having said that, I'm not aware of any
20 legal obligation that this Commission needs to
21 know that before making a decision today. That's
22 a legal determination that the Bay Area District
23 will have to make before they issue the authority
24 to construct for this project, which is something
25 that occurs after the Commission decision.

1 CHAIRMAN KEESE: Thank you, I believe
2 that's consistent with the advice we've received
3 from Major Williams, our Hearing Officer on this
4 issue.

5 MR. WILLIAMS: Can I return to the air
6 for one second?

7 (Laughter.)

8 MR. WILLIAMS: I just want to --

9 CHAIRMAN KEESE: You can answer my --

10 MR. WILLIAMS: Well, I just wanted to --

11 CHAIRMAN KEESE: -- what we just heard
12 is consistent with the information, the opinion
13 you've given us. Yes.

14 MR. WILLIAMS: Yes.

15 CHAIRMAN KEESE: You can return to air
16 for a moment.

17 MR. WILLIAMS: Yes. I wanted to get
18 back to Commissioner Boyd's -- it's really a point
19 of clarification. I apologize for reading from my
20 notes instead of the actual errata.

21 But I believe I clarified the language;
22 it says, in the second clause, through the
23 economic life of the project. But I would also
24 point out that the errata says under subparagraph
25 (e) that if it proves not feasible to obtain the

1 reductions in the northern San Joaquin Valley the
2 reductions shall be obtained in other parts -- and
3 I am now reading from the errata -- in other parts
4 of the San Joaquin Valley Unified Air Pollution
5 Control District.

6 And it says -- the following sentence
7 says the annual target of 66.8 tons. So, I
8 believe that clarifies, to the extent that we're
9 talking about, an annual target.

10 CHAIRMAN KEESE: Thank you. Is there
11 anybody else from the public who wishes to speak
12 briefly to this issue?

13 We're going to take a five-minute
14 recess. Thank you.

15 (Brief recess.)

16 CHAIRMAN KEESE: It is the consensus of
17 the three remaining members of the Commission who
18 are here today that it's clear as mud. And
19 therefore as reluctant as we are to do it, we are
20 going to put this item over most likely to our
21 next Commission meeting.

22 We are going to attempt to rectify the
23 water, so we clear the mud. And we'll have
24 something in front of you.

25 I regret that we have to do this for all

1 the parties. I trust this will not unduly inhibit
2 applicant. But we do not feel that -- we feel we
3 need some remedial work before we can complete
4 this decisionmaking process.

5 Mr. Wheatland.

6 MR. WHEATLAND: The applicant certainly
7 has no objection to the remedial work, and we
8 think that's the best approach. But may I clarify
9 that what you'll be holding over is just this
10 issue of the case, and that other --

11 CHAIRMAN KEESE: We're --

12 MR. WHEATLAND: -- matters are
13 submitted?

14 CHAIRMAN KEESE: We believe that we've
15 resolved most of the issues on water. I don't
16 think we have any -- I think the water issues are
17 resolved.

18 We have two air issues. Number one, we
19 definitely have to deal with the divergent
20 opinions on the air emissions and offsets or
21 action. And the unclarity of the decision as it
22 currently sits in that area.

23 And we will certainly arrange at our
24 next meeting to have the Bay Area clarify the
25 issue that Mr. Boyd raised.

1 MR. WHEATLAND: Okay.

2 MR. BOYD: Thank you.

3 MR. WHEATLAND: If I could just add, the
4 applicant is certainly willing to meet with the
5 Committee in a workshop format if the Committee
6 believes a workshop or a face-to-face discussion
7 of these issues with all the parties present might
8 be beneficial.

9 CHAIRMAN KEESE: Thank you, we're going
10 to leave that open. Commissioner Pernell had a
11 commitment at 1:00 and he hung on as long as he
12 could.

13 Commissioner Boyd, did you want to add
14 something before --

15 PRESIDING MEMBER BOYD: No.

16 CHAIRMAN KEESE: Mr. Sarvey?

17 MR. SARVEY: I just wanted to make sure
18 that I would have an opportunity to present my
19 case at the next hearing, because as an intervenor
20 I hadn't been heard from. And I'm sure you don't
21 want to belabor another hour of my ramblings. So,
22 at this point --

23 CHAIRMAN KEESE: Yeah, --

24 MR. SARVEY: -- I just wanted to make
25 sure I get an opportunity to present my case at

1 the next hearing.

2 CHAIRMAN KEESE: You get a chance, not
3 necessarily -- as I tried to point out, not
4 necessarily as an intervenor.

5 MR. SARVEY: Um-hum.

6 CHAIRMAN KEESE: That process is over.

7 MR. SARVEY: Okay.

8 CHAIRMAN KEESE: But you can sign up as
9 a member of the public; and you can certainly
10 mention your status as you're doing it. So, just
11 don't consider it as part of the intervenor
12 status, but you're certainly welcome to be here
13 and make your point.

14 MR. SARVEY: Thank you, Chairman Keese.

15 CHAIRMAN KEESE: Did you have -- are you
16 raising issues that we're not raising here?

17 MR. SARVEY: I was trying to provide
18 more information for the Commissioners who weren't
19 members of the Committee so they could perhaps
20 understand the case a little more clearly. And
21 also there are issues that have not been addressed
22 which, due to brevity in the previous meetings, it
23 seems the Committee's already made up their mind.
24 I'd like to present them to the other
25 Commissioners, and that's all.

1 It's in the handout that I have. So it
2 will be very easy for them to go through.

3 CHAIRMAN KEESE: So you've given the
4 information --

5 MR. SARVEY: I'll give them some
6 information and I'll just --

7 CHAIRMAN KEESE: All right, it's been
8 distributed to all the members?

9 MR. SARVEY: -- briefly take care of it
10 when we have our next meeting. Thank you.

11 MR. WHEATLAND: That's what I was
12 meaning about not opening it up to new issues that
13 are not raised. I think they're --

14 CHAIRMAN KEESE: Well, we're going to
15 let people say things. At the Commission hearing
16 where we do adoption, people are entitled to make
17 statements.

18 MR. HERUM: Mr. Chairman, --

19 CHAIRMAN KEESE: Yes.

20 MR. HERUM: -- may I ask a question for
21 clarification?

22 CHAIRMAN KEESE: Certainly.

23 MR. HERUM: My name is Steve Herum; I
24 represent Trimark. You indicated the water issue
25 had been resolved. And that is the issue that my

1 client and I are here today about.

2 May I ask what the resolution of it was?

3 CHAIRMAN KEESE: We're not -- we
4 believe that -- I believe, -- we have not done a
5 decisionmaking process here -- I believe that the
6 language that we put in the decision left
7 flexibility for the parties to work out what the
8 status, what the economic arrangements are, who
9 owns the infrastructure.

10 MR. HERUM: We think you're a very wise
11 man. Thank you.

12 CHAIRMAN KEESE: Okay. And we recognize
13 we're not resolving that issue. It's going to be
14 up to the parties to work it out after this
15 decision is made.

16 MR. HERUM: You just gave my speech,
17 thank you.

18 CHAIRMAN KEESE: Thank you. Just real
19 brief, Ms. Sarvey.

20 MS. SARVEY: So when we come back next
21 time that's when we make our public comment about
22 the overall decision that you make? As to all of
23 you? I thought I was coming today because all
24 five of you were going to make a decision and I
25 got a comment on that. Is that what I do next

1 time?

2 CHAIRMAN KEESE: You're welcome to make
3 it today to the three of us, or you can make it
4 next time to the five of us, hopefully five of us.

5 MS. SARVEY: Let me get my paper.

6 MR. BOYD: Commissioner Keese.

7 CHAIRMAN KEESE: Yes.

8 MR. BOYD: Mr. Boyd.

9 CHAIRMAN KEESE: Yes, Mike Boyd.

10 MR. BOYD: I'd just like to leave you
11 all with a happy note for once. I just got
12 information on the internet that the FERC today
13 approved that Enron settlement that the Energy
14 Commission was part of. And that means the Energy
15 Commission will be getting some money back, I
16 understand.

17 CHAIRMAN KEESE: It's spent.

18 (Laughter.)

19 MR. BOYD: Well, I'm sure that's the
20 case. I'm just telling you.

21 CHAIRMAN KEESE: Thank you.

22 MR. BOYD: Okay.

23 MS. SARVEY: So if I give you my thing
24 now and I have any opinions about what you say
25 next time, does that mean I don't get to tell you

1 what I think about what you said?

2 CHAIRMAN KEESE: When we have Commission
3 meetings we hear from the people who are at the
4 table like this.

5 MS. SARVEY: Okay, I'm going to --

6 CHAIRMAN KEESE: And then we allow the
7 public to speak.

8 MS. SARVEY: I'm going to tell you my
9 concerns since they don't want any new issues next
10 time.

11 CHAIRMAN KEESE: Okay.

12 MS. SARVEY: The record doesn't match
13 the decision, so please send it back to the
14 Committee so they can write a decision that
15 matches the record or provides the overrides
16 necessary to make the decision legal.

17 If the Commission wants to site power
18 plants they must provide ironclad legal decisions
19 that are not vulnerable to legal challenge.
20 Otherwise the applicant cannot obtain funding from
21 the banks because of pending lawsuits.

22 As it stands, this decision is
23 vulnerable in land use, water, public health and
24 safety and air quality.

25 There was no unbiased CEQA analysis.

1 There is no water contract with Mountain House.

2 The Fire Department issues are in limbo. The
3 applicant wrote their own air mitigation. And no
4 outside, unbiased input due to memorandums of
5 understanding before the hearings that were signed
6 prevented it from being presented.

7 The Commissioners have rejected staff's
8 comments completely and totally, and I don't
9 understand this, since they made valid points that
10 were supported with fact.

11 Please send this back to the Committee.
12 Licensing at this time is worthless with all the
13 forthcoming legal challenges from a myriad of
14 groups on a myriad of issues. What bank would
15 fund a project like this with this many legal
16 challenges waiting in the wings.

17 So, I ask you to protect our environment
18 and protect ourselves; and consider all those
19 issues, since I don't get to talk about all of
20 them next time. I'll just talk to you about air
21 and water.

22 Thanks.

23 CHAIRMAN KEESE: Thank you. This issue
24 is put over to a subsequent hearing, and we will
25 make every attempt that that would be our next

1 meeting.

2 Do I have a motion on approval of the
3 minutes?

4 COMMISSIONER ROSENFELD: I so move.

5 PRESIDING MEMBER BOYD: Second.

6 CHAIRMAN KEESE: Motion, Rosenfeld;
7 second, Boyd.

8 All in favor?

9 (Ayes.)

10 CHAIRMAN KEESE: Opposed? Adopted three
11 to nothing.

12 Commission Committee and Oversight?

13 Nothing, I trust.

14 Chief Counsel's report.

15 MR. CHAMBERLAIN: I have no report, Mr.
16 Chairman.

17 CHAIRMAN KEESE: Wonderful. Executive
18 Director's report.

19 MR. THERKELSEN: I have no report.

20 CHAIRMAN KEESE: Perfect.

21 (Laughter.)

22 CHAIRMAN KEESE: Perfect. Public
23 Adviser's report. The Public Adviser is gone. No
24 report.

25 Additional public comment? Nobody's

1 made it yet.

2 Adjourned.

3 (Whereupon, at 3:45 p.m., the business
4 meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
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